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## PENSIONS ACT

### Principal Act

<b>Act. No. 1961-13</b>	<i>Commencement</i>	2.11.1961
	<i>Assent</i>	2.11.1961
Amending enactment	Relevant current provisions	Commencement date
Regs of 13.3.1962	Sch.	
Act. 1962-05	ss. 2(1), 6(1), 8(1)	
Regs of 29.11.1962	Sch.	
Act. 1962-24	s. 2(1)	
Regs of 17.12.1963	Sch.	
Act. 1964-19	s. 2(1)	
Regs of 29.11.1962	Sch.	
16. 3.1965	Sch.	
Act. 1968-02	ss. 2(1), 6(2), (3), 9(2), (4), 17(4), 17A, 18(1)	
Regs. of 8.2.1962	Sch.	
Act. 1972-08	s. 2(1)	
1973-30	s. 2(1)	
1974-42	ss. 2(1), 11	
1975-14	ss. 2(1), 8(2)	
LN. 1975/136	Sch.	
Act. 1976-27	s. 2(1)	
1978-20	s. 17(5)	
1980-03	s. 2(4)	
LN. 1980/069	Sch.	
Act. 1982-30	s. 10	
1978-20	ss. 2(1), 17(5)	
LN. 1985/100	Sch.	16.8.1977
1986/127	Sch.	1.1.1984

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Pensions Regulations.

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AN ACT FOR REGULATING PENSIONS, GRATUITIES AND OTHER ALLOWANCES WHICH MAY BE GRANTED TO PUBLIC OFFICERS.

## Short title.

1. This Act may be cited as the Pensions Act.

## Interpretation.

2.(1) In this Act unless the context otherwise requires,—

“designated officer” means a pensionable officer designated as such in pursuance of the Overseas Service Act<sup>♦</sup> or the Overseas Service Agreement (Gibraltar) 1970, or the Overseas Service (Gibraltar) (Continuance) Agreement, 1971/76;

“equivalent United Kingdom salary” means the notional United Kingdom salary taken into account in calculating the inducement allowance of a designated officer, as notified to the Government of Gibraltar by the Government of the United Kingdom;

“fire officer” includes all members of the fire service other than the Chief Fire Officer and the assistant Chief Fire Officer:

Provided that the Governor may, from time to time, by notice in the Gazette, declare that the term “fire officer” shall or shall not apply to any officer in the fire service specified in such notice and such declaration may contain such provisions as may be considered equitable for the purpose of safeguarding existing rights\*;

“house allowance” means either the estimated value of free quarters as defined in regulations under this Act or the amount actually allowed to rent quarters to an officer who, by the terms of his appointment is entitled to free quarters, which amount shall not in either case exceed eight per cent of the officer’s salary:

Provided that in the case of an officer who has enjoyed free quarters in Gibraltar prior to the 1st day of June, 1928, the words “one-sixth” shall be substituted for the words “eight per cent” in this definition;

<sup>♦</sup> *The Overseas Service Ordinance is not reprinted in this edition as it appears spent.*

\* LN 1995/088 “Fire Officers” Declaration and LN 1995/120 Public Service Notice.

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“inducement allowance” means the inducement allowance referred to in paragraph 3(a) of the Schedule to the Overseas Service Act, or paragraph 4 (a) of the Overseas Service (Gibraltar) Agreement 1971, or paragraph 4(a) of the Overseas Service (Gibraltar) (Continuance) Agreement 1971/76;

“inducement element” means the inducement element taken into account in calculating the inducement allowance of a designated officer as notified to the Government of Gibraltar by the Government of the United Kingdom;

“non-designated officer” means a pensionable officer not designated in pursuance of the Overseas Service Act or the Overseas Service Agreement (Gibraltar) 1970, or the Overseas Service (Gibraltar) (Continuance) Agreement, 1971/ 76;

“non-pensionable office” means an office which is not a pensionable office;

“other public service” means public service not under the Government of Gibraltar;

“pensionable emoluments”–

- (a) in respect of public service of non-designated officers under the Government of Gibraltar include–
  - (i) salary;
  - (ii) personal allowance;
  - (iii) house allowance;
  - (iv) cost of living allowance;
  - (v) any other allowance which, by any notice made by the Governor and published in the Gazette, is declared to be included in the pensionable emoluments of any pensionable officer, upon such conditions or in such circumstances and from such date (whether before or after the making of the notice) as may be prescribed by such notice, but does not include any other emoluments or allowances whatever;
- (b) in respect of public service of designated officers under the Government of Gibraltar include–

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- (i) equivalent United Kingdom salary; and
  - (ii) inducement element, but does not include any other emoluments or allowances whatever;
- (c) in respect of other public service mean 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, an office which, by virtue of provision for the time being in force in a notice made by the Governor and published in the Gazette, is declared to be a pensionable office; and any such notification may from time to time be amended, added to, or revoked by a notification 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 does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“police officer” includes all members of the civil police force other than the Commissioner or Deputy Commissioner of Police:

Provided that the Governor may, from time to time, by notice in the Gazette, declare that the term “police officer” shall or shall not apply to any office in the civil police force specified in such notice and such declaration may contain such provisions as may be considered equitable for the purpose of safeguarding existing rights;

“prison officer” includes all members of the prison service other than the Superintendent of the Prison:

Provided that the Governor may, from time to time, by notice in the Gazette declare that the term “prison officer” shall or shall not apply to any officer in the prison service specified in such notice and such declaration may contain such provisions as may be considered equitable for the purpose of safeguarding existing rights;

“public service” means–

- (a) service in a civil capacity under the Government or the Government of any other country or territory in the Commonwealth;
- (b) service in a civil capacity under the East African Railways and Harbours Administration or the East African Posts and Telecommunications Administration, the East Africa High Commission or the East African Common Services Organization;
- (c) service which is pensionable–
  - (i) under the Overseas 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 under the City Council of Gibraltar; or
  - (iv) under the National Health Service of the United Kingdom;
- (d) any other service that the Secretary of State, or the Governor after consultation with the Secretary of State, has determined to be public service for the purposes of this Act;
- (e) except for the purposes of the computation of a pension, gratuity or other allowance and of section 9, service in respect of which a pension may be granted under the Governor’s Pensions Act, 1957;
- (f) 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;

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- (g) service in the service of the Interim Commissioner for the West Indies;

“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;

“week’s wages, weekly wages, pay, and week’s pay” shall have the same meaning and shall mean, unless the context otherwise requires, a week’s wages including any allowance which the Governor may by notice published in the Gazette declare to be included in the wage of any officer upon such conditions or in such circumstances and from such date, whether before or after the making of the notice, as he may prescribe by such notice, which would have been received by the officer at the date of his retirement or discharge from public service under the Government of Gibraltar if, during that week, he had not been absent from work nor called upon to perform any work for which he would be paid at overtime rates.

(2) For the avoidance of doubt 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 Act, 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.

(4) Where in consequence of a general revision of the pensionable emoluments of any office, those pensionable emoluments are increased, and the increase has been awarded in one or more stages, the Governor may at any time by notice published in the Gazette declare that for the purposes of this Act the whole of the increase, or such portion of the increase as he may specify, shall be deemed to have taken effect on the day on which the first stage of the increase was awarded or to have taken effect on such later day (not being after the day on which the last stage of the increase was awarded) as he may specify.

### **Pensions Regulations.**

3.(1) Pensions, gratuities and other allowances may be granted by the Governor in accordance with the regulations contained in the Schedule to or

in respect of officers who have been in public service under the Government.

(2) The Governor, 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.

(3) Whenever the Governor 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 Parliament signified by resolution.

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

(5) Any pension, gratuity or other allowance granted under this Act shall be computed in accordance with the provisions in force or, having been made in accordance with subsection (3), which 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.

**Pensions, etc., to be charged to the Consolidated Fund.**

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

**Pensions, etc., not of right.**

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 Act affect the right of the Crown to dismiss any officer at any time and without compensation.

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

**Circumstances in which pension may be granted.**



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

- (a) if he retires from public service under the Government—
  - (i) on or after he attains the age of fifty-five years; or in special cases with the approval of the Secretary of State, fifty years;
  - (ii) on the abolition of his office, on reduction of establishment, or on grounds of redundancy;
  - (iii) on compulsory retirement for the purpose of facilitating improvement in the organization 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 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 Act;
- (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 such 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 such law or regulations to retire on pension or gratuity:

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

(3) An officer not otherwise qualified for a pension, gratuity or other allowance under this Act (other than a pension under regulation 24(4) of the Pensions Regulations) or otherwise may, on his retirement or resignation from public service under the Government after he has served in such public service for not less than five years, be granted a gratuity in accordance with the provisions of regulation 27 of the Pensions Regulations.

**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 Act, the Governor 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 section 6(1)(a)(iv).

**Compulsory retirement.**

8.(1) The Governor may require an officer to retire from the public service under the Government—

- (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.

(2) In the case of any fire officer, police officer or prison officer the Governor may require such officer to retire from the public service under the Government at any time after he has attained the age of fifty years and retirement shall be compulsory for every such officer on attaining the age of fifty-five years.

**Maximum pension.**

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

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(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 Gibraltar 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—

- (a) where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be—
  - (i) where the right to commute any part of a pension in return for the payment of a gratuity has been exercised or deemed to have been exercised, the amount as if that right had not been exercised or deemed not to have been exercised, as the case may be; or
  - (ii) in all other cases, four-thirds of its actual amount;
- (b) no regard shall be had to any pension granted in respect of other public service attributable to service which has not been taken into account in determining the amount of the pension payable to an officer under this Act.

(3) Where the limitation prescribed by subsection (2) operates, the amount of pension to be drawn from the public funds of Gibraltar 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 purpose of the preceding subsection—

- (a) an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such additional pension under this Act, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of the highest pensionable emoluments enjoyed by him at any time during his pensionable service; and
- (b) any increase in or allowance to pension granted to or in respect of any pension drawn in respect of public service and any increase or allowance granted under the Pensions Increase Act

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or any instrument in force in the public service, whether or not such instrument has the force of law, subsequent to the grant of the pension, shall not be taken into account.

(5) For the purposes of this section, no reduction made in any pension or gratuity by virtue of the provisions of the Pensions (Widows and Orphans) Act shall be taken into account.

**Reduction on account of other benefits.**

10. When an officer or any other person on his account is receiving under the provisions of any Act benefits arising in respect of contributions paid by the Government as an employer of such officer, a pension, gratuity or other allowance granted under this Act to such officer or such other person shall be reduced by such an amount as in the opinion of the Governor does not exceed the sum of such benefits:

Provided that no reduction shall be made in respect of—

- (i) any benefit payable under the Social Security (Employment Injuries Insurance) Act to any person who was in insurable employment on the 7th day of July, 1952;
- (ii) any maternity grant;
- (iii) any benefit payable under the Pensions (Widows and Orphans) Act; or
- (iv) any benefit or part of a benefit payable under the Social Security (Insurance) Act, to the extent that it is attributable to a contribution made by the Government under that Act in respect of employment in the public service by the officer on or after the 1st day of April, 1980.

**Liability of pensioners to be called upon to take former employment.**

11.(1) Every pension granted under this Act shall be subject to the following conditions:—

- (a) unless or until the person in receipt of the pension has attained the age of fifty years he may, if physically fit for service, be called upon by the Secretary of State to accept, in lieu of his pension, an office, whether in public service under the Government or in other public service, not less in value, due

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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 years.

(2) The provisions of subsection (1) shall not apply in any case where the Governor, 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.**

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

### **Pensions, etc., not to be assignable.**

13. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying-

- (a) a debt due to the Government; or
- (b) an order of any 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.

### **Pensions, etc., to cease on bankruptcy.**

14.(1) Where any person to whom a pension or other allowance has been granted under this Act 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-

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- (a) after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance, under this Act, 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 nineteen years or, in the case of a female child, has married.

**Pensions, etc., may cease on imprisonment.**

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15.(1) Where any person to whom a pension or other allowance has been granted under this Act 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.

(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 Act but before the pension, gratuity, or other allowance is granted, then—

- (a) the provisions of subsection (1) 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 14; 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).

(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).

**Pensions, etc., on accepting certain appointments.**

16. Where any person to whom a pension or other allowance has been granted under this Act, otherwise than under section 18, becomes either a director of any company the principal part of whose business is in any way

directly concerned with Gibraltar, or an officer or servant employed in Gibraltar by any such company, without the prior permission in writing of the Governor, such pension or allowance shall cease if the Governor so directs:

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 Gibraltar, 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.

**Gratuity where officer dies in the service or after retirement.**

17.(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 which he has been confirmed, dies while in public service under the Government, the Governor may grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater:

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 section 18 (1) shall be deemed to have been confirmed in his office.

(2) Where an officer holding a non-pensionable office dies while in service under the Government having been in such service continuously for not less than ten years, the Governor may grant to his legal personal representative a gratuity of an amount not exceeding fifty-two times his weekly wages.

(3) Where an officer dies after retirement from public service under the Government having been granted, or having become eligible for, a pension under this Act 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 26 of the Pensions Regulations, any gratuity under regulation 27 of those regulations and any pension or gratuity paid or payable in respect of his service under any scheduled administration (as defined in regulation 9 of the Pensions Regulations) but excluding any additional pensions awarded in accordance with the provisions of regulation 24 (3) (b) of the Pensions Regulations are less in total than the amount of his annual pensionable emoluments, or in the case of an officer who was holding a non-pensionable office, the sums paid or payable to him at the



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date of his death on account of any pension or gratuity under this Act are less in total than fifty-two times his weekly wages, the Governor may grant a gratuity equal to the deficiency to his legal personal representative.

(4) 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 Overseas Superannuation Scheme in respect of such death or in the case of the death of an officer to whom section 17A applies.

(5) 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 Act or, in the case of such officer as is described in subsection (1), the emoluments which would have been taken in accordance with regulation 19 of the Pensions Regulations 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 26 of the Pensions Regulations if the pensionable service which would be taken for the purpose of computing any pension or gratuity granted to him under this Act had been wholly under the Government and if on the day following the date of his death he had retired from the public service in circumstances which enabled the grant of a pension to be made and had elected to receive a gratuity and reduced pension and for the purposes of this paragraph an officer who is aged less than fifty-five years and who has completed more than ten years but less than twenty years pensionable service shall—
  - (i) if he would have completed twenty years pensionable service by the time he attained fifty-five years be deemed to have completed twenty years pensionable service; or
  - (ii) if he would not have completed twenty years pensionable service by the time he attained fifty-five years be deemed to have completed such number of years of pensionable service as he would have completed on attaining the age of fifty-five years;

- (c) “weekly wages” means the weekly wages taken for the purpose of computing any pension granted to the officer under this Act or, in the case of such officer as is described in subsection (2), the weekly wages which would have been taken in accordance with regulation 5 of the Pensions Regulations for the purpose of computing the pension 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.

(6) For the purposes of this section, no reduction made in any pension or gratuity by virtue of the provisions of the Pensions (Widows and Orphans) Act shall be taken into account.

**Gratuities in special circumstances.**

17A.(1) Where an officer to whom this section applies dies while in public service under the Government after serving in that public service for not less than five years, it shall be lawful for the Governor to grant to his legal personal representative a gratuity at the rate herein specified for each complete year of that public service, that is to say:—

- (a) for each of the first five years, one weeks pay;
- (b) for each of the next five years, two weeks pay; and
- (c) for each additional year, four weeks pay:

Provided that the total amount of the gratuity shall not exceed the amount of one year’s pay.

(2) Where an officer to whom this section applies dies as a result of injuries received in public service under the Government in the circumstances specified in paragraphs (a) and (b) of section 18(1) before completing five years’ public service under the Government, it shall be lawful for the Governor to grant to his legal personal representative a gratuity not exceeding five weeks pay.

- (3) This section applies to an officer who holds—
- (a) a non-pensionable office other than an officer who has been in public service under the Government continuously for not less than ten years; or
  - (b) a pensionable office in which he is not serving on probation and (if his appointment to that office is subject to confirmation)

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in which he has not been confirmed and who is not eligible for the grant of a pension, gratuity or other allowance under this Act (other than a pension under regulation 24(4) of the Pensions Regulations) or for the grant, under his terms of service, of a gratuity or a benefit under any other scheme of superannuation.

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

18.(1) Where an officer while in public service under the Government—

- (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, the Governor may grant, in addition to the grant, if any, made to his legal representative under section 17 or 17A—

- (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 £20 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 nineteen years, of an amount not exceeding one-eighth of the pension prescribed under sub-paragraph (i);
- (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 nineteen years, of double the amount prescribed by sub-paragraph (ii);
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under sub-

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 nineteen years of double the amount prescribed in sub-paragraph (ii);

- (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 or her for his 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 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 nineteen years, of the same amount and subject to the same conditions as the pension which might have been granted under sub-paragraph (ii), (iii) or (iv) as the case may be:

Provided that—

- (a) if in the opinion of the Governor 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 nineteen a pension for such period as the Governor may determine, of an amount not exceeding the pension which may be granted under sub-paragraph (ii), (iii) or (iv), 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 sub-paragraph (ii), (iii) or (iv) grant an additional pension in respect of such incapacitated child after he has

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attained the age of nineteen years and so long as his incapacity shall continue, of an amount not exceeding one-half the pension which might have been granted under sub-paragraph (ii), (iii) or (iv), as the case may be;

- (c) where death benefit is payable in respect of the death under the Social Security (Employment Injuries Insurance) Act, or where benefits corresponding to benefits granted under this section are payable under the Overseas Superannuation Scheme or under the law in force in respect of any other public service, in respect of death, the Governor 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 sub-paragraph (v), (vi) or (vii), 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, he 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—

- (a) a pension is withheld or ceases under this subsection; and
- (b) the Governor 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 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 subsection (1) 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 Gibraltar at the commencement or termination of his service in public service under the Government 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 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).

(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 subsection (1)(a):

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

- (7) (a) Where the Governor 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), the Governor may take those damages into account against such pension in such manner and

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to such extent that he may think fit and may withhold or reduce the pension accordingly;

- (b) for the purposes of this subsection a person 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, in relation to a person-
  - (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 prescribed 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 subsection (1)(b) and to the date on which such disease is contracted.

**War service to count for pension purposes.**

19. 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:

- (a) During the period of such service in Her Majesty's Forces, including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of this Act, 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.
- (b) 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 Act, 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—

- (i) this section shall not apply when either period mentioned in paragraph (b) 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



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expiration of three months, or such longer period as may be determined as aforesaid, after the termination of his military service;

- (ii) if during any period mentioned in paragraph (a) the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (a) 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”;
- (iii) if during his military service the officer shall be injured or killed, he shall not, for the purposes of this Act, be deemed to have been injured or killed in the discharge of his duty;
- (iv) 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;
- (v) save where in 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.

#### **Provision of pensions for matrons, etc.**

20.(1) A matron, sister or staff nurse who has had not less than three years public service under the Government and not less than fifteen years in all in the public service or in a public hospital to which she received an appointment through the Overseas Nursing Association and who would not otherwise be entitled to a pension under this Act or any other law, may be granted on her ultimate retirement a retiring allowance calculated at the rate of £1.24 per annum for each month of her public service under the Government of Gibraltar and for the purposes of this section such total service need not be continuous:

Provided that—

- (a) except in case of retirement on account of illness, no such retiring allowance shall be payable until the matron, sister or staff nurse reaches the age of fifty years;

- (b) the grant of such retiring allowance shall be dependent on the production to the satisfaction of the Secretary of State of certificates of satisfactory service in respect of each period of total qualifying service; and
- (c) the total retiring allowance drawn by the matron, sister or staff nurse shall not exceed the amount of pension which she would have drawn if her whole service had been on the pensionable establishment of the Government.

(2) Where a matron, sister or staff nurse retires from service on account of ill-health it shall be lawful for the Governor to waive the qualifications of age and service set out in subsection (1) and to grant to the matron, sister or staff nurse a retiring allowance calculated at the same rate as if her retirement had been due to normal circumstances:

Provided that no retiring allowance shall be granted under this subsection unless the matron, sister or staff nurse shall have served not less than ten years in service as set out in subsection (1) and shall produce the certificates required under that subsection.

(3) This section shall apply to all matrons, sisters and staff nurses who have been in public service under the Government since the 1st day of January, 1926.

**Application and saving.**

21.(1) Subject to the provisions of subsection (2) the provisions of this Act shall apply to all officers in service under the Government at or after the commencement of this Act, and to all those who, having been in public service under the Government have before the commencement of this Act been transferred to other public service and are still in other public service at the commencement of this Act.

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

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**SCHEDULE**

Section 3

**PENSIONS REGULATIONS**

Amending enactment	Relevant current provisions	Commencement date
LN. 1985/100	rr. 2(1), 5(1)(d), 15(4), 16(1), 19, 20(c)(i)	16.8.1977
1986/127	r. 5(2)-(3)	1.1.1984

**ARRANGEMENT OF REGULATIONS.**

Regulation

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6. Gratuities where length of service does not qualify for pension.
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23. Abolition of office and reorganization.
24. Officers injured or contracting diseases in the discharge of their duties.

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25. Additional pension for officers with over ten and less than twenty years service retiring on grounds of ill-health.
26. Gratuity and reduced pension.
27. Gratuities for officers not otherwise qualified.

## **SCHEDULES.**

Scheduled administrations.

**PART I.—PRELIMINARY.****Title.**

1. These regulations may be cited as the Pensions Regulations.

**Interpretation.**

- 2.(1) 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 Act” means the Pensions Act.

“part-time service” means:—

- (i) in the case of teachers in the public service under the Government of Gibraltar, service where the teacher gives:—
  - (a) such service either on full mornings of full afternoons during every working day of the week; or
  - (b) continuous service on every working day of the week in any combination of full mornings and full afternoons as the Governor may in his absolute discretion approve:

Provided that such service shall not be less than 10 hours per week;

- (ii) in all other cases, service in the public service under the Government of Gibraltar where the person is employed gives service of not less than 18 hours per week or, in the case of service on and after the 1 day of October, 1982, not less than 15 hours per week.

- (2) For the purposes of regulations 5 and 27, where in consequence of a general revision of the wages of any officer, those wages are increased, and the increase has been awarded in one or more stages, the Governor may by notice published in the Gazette declare that for the purposes of these regulations the whole of the increases, or such portion of the increase as he may specify, shall be deemed to have taken effect on the day on which the first stage of the increase was awarded or on such later day (not being before

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the day on which the last stage of the increase was awarded) as he may specify.

## **PART II.—OFFICERS WITHOUT OTHER PUBLIC SERVICE.**

### **Application of Part II.**

3. Save when the Governor in any special case otherwise directs, this Part shall not apply in the case of any officer transferred to or from public service under the Government 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.

### **Pension to whom and at what rates to be granted.**

4.(1) Subject to the provisions of the Act and of these regulations, every public officer holding a pensionable office under the Government who has been in service under the Government for ten years or more may be granted on his retirement a pension at the rate of one six-hundredth of his pensionable emoluments in respect of each completed month of pensionable service:

Provided that in respect of each month of pensionable service completed by a police officer, a prison officer or a fire officer as a police officer, prison officer or fire officer after his twentieth and before his twenty-seventh year of service as one or more of such officers the rate shall be two six-hundredths of his pensionable emoluments.

(2) Where any police officer –

- (a) served immediately before the 1st day of April, 1947, in Her Majesty's Dockyard in Gibraltar, and did not hold a pensionable office therein, whether as a member of the Dockyard Police or otherwise; and
- (b) was appointed as a police officer in the civil police force with effect from such date,

one half of the total period of his continuous service in such Dockyard shall be deemed to have been service as a police officer for the purposes of this Act and to have been continuous with the period of his service under the Government beginning on such date.

(3) An officer who actually retires from the public service in the circumstances mentioned in section 6(1)(a)(iv) of the Act, and at an age of less than fifty-five years, and who has completed more than ten years but less than twenty years pensionable service, may be granted an additional pension at the annual rate of one six-hundredth of his pensionable emoluments for each month by which his pensionable service falls short of twenty years:

Provided that in the case of an officer whose pensionable service would, if he had continued to hold until he attained the age of fifty-five the office which he held at the date of his retirement, have been a period shorter than twenty years, this paragraph shall have effect as if for the last reference therein to twenty years there were substituted a reference to that shorter period.

**Pensions for non-pensionable officers.**

5.(1) An officer to whom this regulation applies may be granted on his retirement from public service under the Government, in addition to the gratuity mentioned in regulation 27, a pension at an annual rate not exceeding three-quarters of his weekly wages for each year of his service:

Provided that –

- (a) no pension granted under this regulation shall exceed twenty-six times his weekly wages;
- (b) if he becomes eligible for a retirement pension under any social insurance scheme to which the Government makes contributions as his employer, the pension granted under this regulation shall be reduced by such amount as in the opinion of the Governor represents the proportion of such retirement pension secured by such contributions; and
- (c) if he is discharged on grounds of redundancy, the pension shall not become payable until either he shall have attained the age of sixty or unless medical evidence to the satisfaction of the Governor be produced showing that he is incapable by reason of some permanent infirmity of mind or body of earning a living.
- (d) any pension or part thereof granted in respect of a period of part time service shall not exceed three quarters of the amount of pension computed in the same proportion that the part time weekly hours actually worked bear to the full time weekly



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hours of the public office in which the officer served on a part time basis.

- (2) This regulation applies to any officer who has been in public service under the Government continuously for not less than ten years and who –
- (a) has attained the age of sixty years or, in special cases approved by the Governor, fifty-five years; or
  - (b) is discharged on the grounds of redundancy; or
  - (c) is retired on medical evidence to the satisfaction of the Governor that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent.

(3) Where an officer retires from the public service in the circumstances mentioned in sub-regulation (2)(c), and at an age of less than sixty years he may be deemed for the purposes of this regulation and regulation 27, to have been continuously in the public service under the Government for twenty years:

Provided that in the case of such an officer whose service would, if he had continued to hold until he attained the age of sixty years the offices which he held at the time of his retirement, have been a shorter period than twenty years, this paragraph shall have effect as if for the last reference therein to twenty years there were substituted a reference to such shorter period.

(4) *Revoked.*

**Gratuities where length of service does not qualify for pension.**

6. 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(1).

**Marriage gratuities.**

7. Where a female officer having been in public service under the Government for not less than five years and having been confirmed in a pensionable office, retires for the reason that she is about to marry, or has married, and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part, she may be granted, if she retires not later than six months after the date of her marriage, on production within six months

after her retirement, or such longer period as the Governor may in any case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding –

- (a) one year's annual pensionable emoluments; or
- (b) five times the annual amount of the pension which might have been granted to her under regulation 4 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.**

8. This Part shall apply only in the case of an officer transferred to or from public service under the Government from or to other public service.

#### **Interpretation.**

9.(1) In this Part and Part IV–

“scheduled administration” mean–

- (a) the Government of any territory, or any authority, mentioned in the schedule;
- (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 1st 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; and
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August, 1960;

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- (f) the East African Common Service Organization in respect of any person deemed to have been appointed or 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;
- (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 and under a scheduled administration or scheduled administrations.

(2) Where an officer to whom this Part 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 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 day of 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 day of 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.

**Pension for service wholly within the group.**

10.(1) Subject to the provisions of the Act and of these regulations, where the other public service of an officer to whom this Part 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 for a person under the Act, he may, on his retirement from the public service, be granted in respect of his service in public service under the Government a pension of such an amount as shall bear the 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 as the aggregate amounts of his pensionable emoluments during service in public service under the Government 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 –

- (a) in the application of regulation 19, 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 regulation 4(3) or under regulation 23, 24 or 25;
- (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 in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be, shall be taken into account.

(3) For the purposes 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

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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 in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be;
- (b) where any period of 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.

(4) Where an officer entered the public service prior to the 1st day of January, 1930, his pension in respect of his public service under the Government may be calculated as though any scheduled administration under which he has served had not been included in the Schedule, if this should be to his advantage.

**Pension where other service is not within the group.**

11.(1) Subject to the provisions of the Act and of these regulations, where the other public service of an officer to whom this Part 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 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, 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 at the time of such retirement, his pensionable emoluments for the purposes of sub-regulation (1) 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.

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

12. Where a part only of the other public service of an officer to whom this Part applies has been under one or more of the scheduled administrations, the provisions of regulation 10 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

**Gratuities where length of service does not qualify for pension.**

13. Subject to the provisions of the Act and of these regulations, where an officer to whom this Part 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 a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted under regulation 10, 11 or 12, as the case may be.

**Marriage gratuities.**

14. Where a female officer to whom this Part applies retires or is required to retire for the reason that she is about to marry or has married, and –

- (i) would have been eligible for a gratuity under regulation 7 if her public service had been wholly under the Government'; and
- (ii) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part,

she may be granted in respect of her public service under the Government a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible under regulation 10, 11 or 12 had there been no qualifying period and had regulation 10, 11 or 12, 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 regulation 10 or 12, sub-paragraph (c) of regulation 10 (2) shall have effect as if the reference 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 10, 11 or 12, the annual amount of that pension shall not exceed one-fifth of her annual pensionable emoluments.

**PART IV.–GENERAL.**

**General rules as to qualifying service and pensionable service.**

This version is out of date

15.(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.

(2) No period which is not qualifying service by virtue of the foregoing paragraph 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.

(4) For the purpose of these regulations:

(a) account shall be taken of full time service, part time service or a combination of both full time service and part time service;

(b) part time service shall count as qualifying service from the date on which an officer begins to draw his salary in respect of that part time service and the date of his leaving that service.

## **Continuity of service.**

16.(1) Except as otherwise provided in these regulations, only continuous public service shall be taken into account as qualifying service or as pensionable 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 1st 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.

And provided also that any two or more periods of service of which account is taken for the purpose of these regulations shall be deemed to be continuous even if they are separated by a period of continuous part time service of less than prescribed number of hours.

(2) An officer –

This version is out of date

- (a) whose pension has been suspended under section 12 of the Act 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 reorganization designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
- (c) who has left pensionable service under any Acts relating to the superannuation of teachers in the United Kingdom or under a local authority in the United Kingdom or 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 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—

- (i) any pension previously granted to him from the funds of Gibraltar; and
- (ii) 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.

(3) Where an officer was evacuated from Gibraltar at any time between the 3rd day of September, 1939, and the 9th day of May, 1945, any service under the Government before the date of such evacuation and any such service thereafter shall be regarded as unbroken service for the purposes of these regulations:

Provided that, where such officer has received a gratuity in respect of such service before the date of such evacuation, such service before evacuation shall be regarded as qualifying service but not as pensionable service or service in respect of which a gratuity or pension may be granted.

#### **Officers elected to Parliament.**



This version is out of date

16A.(1) Notwithstanding regulation 16, where an officer—

- (a) is elected as an Elected Member of the Parliament; and
- (b) resigns from the public service in order to take his seat in the Parliament; and
- (c) within 3 months of next ceasing to be an Elected Member of the Parliament is re-instated in the public service—

the period between his resignation from the public service and his re-instatement shall not constitute a break in his service in the public service.

(2) For the purposes of sub-regulation (1), an Elected Member of the Parliament who at the next election of Elected Members of the Parliament following a dissolution, is again elected, shall be deemed not to have ceased to be, by virtue of that dissolution, an Elected Member.

### **Leave without salary.**

17. 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.**

18. 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 Gibraltar 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 into account for computation of pensions etc.**

19.(1) For the purpose of computing the amount of the pension or gratuity of an officer whose service has been wholly full time and 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 those 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, 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:

Provided that if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments of that office have not been considered in a general revision of pensionable emoluments, then,

This version is out of date

for the purposes of this regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the Governor in his discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of the revision.

(3) For the purpose of computing the amount of the pension or gratuity of an officer whose service has been wholly full time and 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) The estimated value of free quarters in respect of public service under the Government shall be such as the Governor may determine in any particular case.

(5) 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.

(6) For the purpose of computing the amount of the pension or gratuity of an officer who has a combination of full time service and part time service or part time service only the pensionable emoluments in respect of:

- (a) full time service shall be subject to the provisions of paragraph (1), (2) and (3) of this regulation;
- (b) part time service shall be an amount in the same proportion that the part time weekly hours actually worked bear to the full time weekly hours of the public office in which the officer served on a part time basis: Provided that the amount of pensionable emoluments taken into account shall not exceed the pensionable emoluments in respect of the full time weekly hours of the public office in which the officer served.

**Service in non-pensionable office.**

20. 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:

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 be so taken into account;
- (b) any break in service which may be disregarded under the provisions of regulation 16 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 a non-pensionable office and subsequently retires either from a pensionable office or a non-pensionable office his service in the non-pensionable office may, with the approval of the Governor, 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:

Provided that the pensionable emoluments in respect of any period of part time service shall be computed in the same proportion that the part time weekly hours actually worked bear to the full time weekly hours of the public office in which the officer served.

- (ii) where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall, during that period, be deemed for the purpose of regulations 7, 23 and 24 to be holding a pensionable office, and where that period is taken into account under sub-paragraph (1) of paragraph (c) of this proviso to have been confirmed therein.

**Acting service.**

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This version is out of date

21. 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 regulation 20) 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 18 or on probation or agreement.**

22. 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 eighteen 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 16 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 reorganization.**

23. 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 organization 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 6 or 13, a pension under regulation 4, 10, 11 or 12, as the case may be, as if the words “for ten years or more” were omitted from regulation 4(1);

- (b) if he retires from the public service under the Government, be granted an additional pension at the annual rate of one 'one-hundred-and-eightieth of his pensionable emoluments for each complete year of his pensionable service:

Provided that—

- (i) the addition shall not exceed thirty one-hundred-and-eightieths; 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.**

24.(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 sub-regulation (2) 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 6 or 13, a pension under regulation 4(1) or regulation 10, 11 or 12,

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as the case may be, as if the words “for ten years or more” were omitted from regulation 4(1);

- (b) if he was injured while in public service under the Government of Gibraltar 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 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 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 sub-regulation (3) if his office were a pensionable office and he had been confirmed therein.
- (b) The provisions of regulation 26 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 sub-regulation (3) (b) or sub-regulation (4) 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 26 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 Gibraltar at the commencement or termination of his public service under the Government; 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 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 rule to have been injured in the circumstances described in sub-regulation (1).

(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 sub-regulation (1):

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

(8) Where injury or disablement benefit is payable under the Social Security (Employment Injuries Insurance) Act, or where benefits corresponding to an additional pension or pension under sub-regulation (3) or (4) are payable, under the Overseas 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 sub-regulation (3) or (4) in such manner as he may consider reasonable.

- (9) (a) Where the Governor 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-regulation (3)(b) or under sub-regulation (4), the Governor may take those 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 purposes 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.



This version is out of date

**Additional pension for officers with over ten and less than twenty years service retiring on grounds of ill-health.**

25. Where an officer who has been transferred from other public service and whose aggregate service would have rendered him eligible, had it been wholly under the Government, for a pension under these regulations, is compulsorily retired from the public service in circumstances mentioned in regulation 4(3), he may, if at the time he is in public service under the Government be granted from the funds of Gibraltar the additional pension allowed by that regulation as well as the pension granted under regulation 10, 11 or 12, as the case may be.

**Gratuity and reduced pension.**

26.(1) Any officer to whom a pension is granted under the Act, other than a pension granted under regulation 5, may at his option exercisable as in this regulation provided, be paid in lieu of such pension at the rate of not less than 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 section 9(2) of the Act operates, the words "such pension" shall mean the amount of pension which the officer might have drawn from the funds of Gibraltar 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 the Act;
  - (b) shall be exercised or revoked by notice in writing addressed either to the Secretary of State or to the Deputy Governor;
  - (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 the Act, the Governor may, if he thinks fit, grant to his legal personal representatives a gratuity and a reduced pension as provided in sub-regulation (1) as if the officer had exercised the option before his death.

**Gratuities for officers not otherwise qualified.**

27.(1) Where an officer to whom this regulation applies retires or resigns from public service under the Government after serving in that public service for not less than five years, he may be granted by the Governor a gratuity at the rate herein specified for each complete year of service, that is to say:—

- (a) for each of the first five years, one week's pay;
- (b) for each of the next five years, two weeks' pay; and
- (c) for each additional year, four weeks' pay:

Provided that the total amount of the gratuity shall not exceed the amount of fifty-two weeks' pay.

And provided that the pay taken into account in respect of any period of part time service shall be computed in the same proportion that the part time weekly hours actually worked bear to the full time weekly hours of the public office in which the officer served.

- (2) This regulation applies to—
  - (a) an officer to whom section 6(3) of the Act refers; and
  - (b) an officer who holds a non-pensionable office.
- (3) For the purposes of this regulation—
  - (a) an officer who, having held a non-pensionable office holds a pensionable office in which he is serving on probation shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pay last received by him in respect of the non-pensionable office he previously held or the pensionable emoluments of the pensionable office held by him, whichever is the greater;
  - (b) in calculating the period in which any officer has served in public service under the Governor —
    - (i) subject to any general or special directions to the contrary that may be given by the Governor only continuous service terminating at his retirement or resignation shall be taken into account;

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- (ii) no regard shall be had to any period of service for which he is eligible for the grant of or has been granted a pension, gratuity or other allowance under the Act (other than a pension under regulation 24(4)) or, as provided under his terms of service, a gratuity or a benefit under any other scheme of superannuation.

**SCHEDULE TO THE REGULATIONS.**

Regulation 9(1).

**SCHEDULED ADMINISTRATIONS.**

Aden  
Antigua  
Bahamas  
Barbados  
Basutoland  
Bechuanaland Protectorate  
Bermuda  
British Antarctic Territory  
British Guiana  
British Honduras  
British Solomon Island Protectorate  
Brunei  
Cayman Islands  
City Council of Gibraltar  
Crown Agents for Oversea Governments and Administrations  
Dominica  
East African Common Services Organisation  
East Africa High Commission  
East African Railways and Harbours Administration  
Eastern Region of Nigeria  
Employing Authorities under the Overseas Superannuation Scheme  
Falkland Islands  
Federal Republic of Nigeria  
Federation of Malaya  
Federated Malay States  
Federation of Nigeria  
Federation of Rhodesia and Nyasaland  
Fiji  
Gambia  
Ghana  
Gilbert and Ellice Islands  
Gold Coast  
Grenada  
Guyana  
Hong Kong  
Interim Commissioner for the West Indies  
Jamaica  
Kenya  
Kenya and Uganda Railways and Harbours Administrations  
Kingdom of Lesotho

This version is out of date

Leeward Islands (before 1st July, 1956.)  
Malawi  
Malayan Establishment  
Malayan Union  
Malaysia  
Malta  
Mauritius  
Mid West Nigeria  
Montserrat  
Nigeria  
North Borneo  
Northern Region of Nigeria  
Northern Rhodesia  
Nyasaland  
Overseas Audit Department (Home Establishment)  
Republic of Botswana  
Sabah  
St. Christopher, Nevis and Anguilla  
St. Helena  
St. Lucia  
St. Vincent  
Sarawak  
Seychelles  
Sierra Leone  
Singapore  
Somaliland Protectorate  
Southern Cameroons  
Straits Settlements  
Swaziland  
Tanganyika  
The West Indies (Federation)  
Tonga  
Trinidad and Tobago  
Turks and Caicos Islands  
Uganda  
Unfederated Malaya States  
United Kingdom  
United Republic of Tanzania  
Virgin Islands  
Western Region of Nigeria  
Republic of Zambia  
Zanzibar  
Service under the Overseas Service Act, 1958.