

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE
No. 2,251 of 12th SEPTEMBER, 1985.**

LEGAL NOTICE No. 100 OF 1985.

PENSIONS ACT.

(Cap. 121).

PENSIONS (AMENDMENT) REGULATIONS, 1985.

In exercise of the powers conferred on him by Section 3 of the Pensions Act, and of all other enabling powers, the Governor in Council with the sanction of the Secretary of State and the approval of the House of Assembly has made the following regulations:

Title and commencement.

1.(1) These regulations may be cited as the Pensions (Amendment) Regulations, 1985.

(2) These regulations shall be deemed to have come into operation on the 16th day of August 1977.

Amendment of Regulation 2.

1. Regulation 2(1) of the Pensions Regulations (hereinafter called the principal regulations) is amended by inserting after the definition of the term "the Act" the following new definition:

"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 or 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 employed gives service of not less than 18 hours per week or, in the case of service on and after the 1st day of October, 1982, not less than 15 hours per week."

Amendment of Regulation 5.

3. Regulation 5(1) of the principal regulations is amended by inserting the following further proviso:

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

Amendment of Regulation 15.

4. Regulation 15 of the principal regulations is amended by revoking sub-regulation (4) thereof and substituting therefor the following new sub-regulation:

"(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 salary in respect of that part time service and the date of his leaving that service."

Amendment of Regulation 16.

5. Regulation 16(1) of the principal regulations is amended by inserting the following further proviso:

"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 the prescribed number of hours."

Replacement of Regulation 19.

6. The principal regulations are amended by revoking regulation 19 thereof and substituting therefor the following new regulation:

"Emoluments to be taken into account for computation of pensions etc.

19. (1) For the purposes 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 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

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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 underparagraph (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, 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 said revision.

(3) For the purposes 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.

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(4) The estimated value of free quarters in respect of public service under the Government of Gibraltar 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 paragraphs (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."

Amendment of Regulation 20.

7. Regulation 20 of the principal regulations is amended by revoking proviso (c) (i) and substituting therefor the following new proviso:

- "(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

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bear to the full time weekly hours of the public office in which the officer served."

Amendment of Regulation 27.

8. Regulation 27(1) of the principal regulations is amended by inserting the following further proviso:

"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."

Saving.

9. Any periods of service prior to the promulgation of the Pensions(Amendment) Regulations, 1985, during which it can be proved to the satisfaction of the Governor that an officer has been in service under the Government of Gibraltar, but in respect of which service the reckonable hours cannot be ascertained, shall be determined by reference to the average weekly or monthly hours actually worked during the period of thirteen weeks or three months immediately prior to or following the period or periods for which no records exist.

Dated this 12th day of September, 1985.

By Command,

J.K.E. BROADLEY,

Deputy Governor.