

CHAPTERS 43 to 48.

No Subsidiary Legislation.

CHAPTER 49.

PENSIONS.

REGULATIONS.

Section 3.

Short title.

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

Interpretation.

2. In these regulations unless the context otherwise requires—

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

“pensionable service” means service which may be taken into account in computing pension under these regulations;

“the Ordinance” means the Pensions Ordinance.

Part II.

OFFICERS WITHOUT OTHER PUBLIC SERVICE.

Application of Part II.

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

Pensions to whom and at what rates to be granted.

4. Subject to the provisions of the Ordinance and of these regulations, every officer holding a pensionable office in the Colony, who has been in the service of the Colony in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one seven-hundred-and-twentieth of his pensionable emoluments for each complete month of his pensionable service.

Gratuities where length of service does not qualify for pension.

5. Every officer, otherwise qualified for a pension, who has not been in the service of the Colony in a civil capacity

for ten years, 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 him under regulation 4 of these regulations.

Part III.

TRANSFERRED OFFICERS.

6. This Part of these regulations shall apply only in the case of an officer transferred to or from the service of the Colony from or to other public service.

Application of Part III.

7. In this Part and Part IV of these regulations—

Interpretation.

“Scheduled Government” means the Government of any territory, or any authority, mentioned in the schedule to these regulations and includes the Government of Ceylon, in respect of any officer appointed to the service of that Government prior to the 4th February, 1948, and the Government of Palestine, in respect of any officer appointed to the service of that Government prior to the 15th May, 1948;

“service in the Group” means service under the Government of the Colony and under a Scheduled Government or Scheduled Governments.

8. (1) Where the other public service of an officer to whom this Part of these regulations applies has been wholly under one or more Scheduled Governments and his aggregate service would have qualified him had it been wholly in the Colony for a pension under the Ordinance, he may, on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted in respect of his service in the Colony 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 the Colony, as the aggregate amounts of his pensionable emoluments during his service in the Colony shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the Group.

Pension for service wholly within 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 in the Colony—

(a) in the application of regulation 16, his emoluments shall be determined by reference to the pensionable

emoluments enjoyed by him at the date of retirement from the public service or during the three years preceding that date, as the case may be, except that where the officer is not serving under a Scheduled Government at that date, the date upon which he was last transferred from the service of a Scheduled Government shall be deemed to be the date of his retirement for the purposes of this subparagraph;

- (b) no regard shall be had to an additional pension under regulation 20 or regulation 21;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of his highest pensionable emoluments;
- (d) no period of other public service under a Scheduled Government in respect of which no pension or gratuity is granted to him shall be taken into account.

(3) For the purpose of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the Group subsequent to the attainment of the age of 20 years:

Provided that:

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under Scheduled Government in respect of which no pension or gratuity is granted to him;
- (b) where under regulation 17 one half only of any service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, one half only of the officer's aggregate pensionable emoluments during that service shall be taken into account for the calculation aforesaid.

Pension where other service not within the Group.

9. (1) Where the other public service of an officer to whom this Part of these regulations applies has not included service under any of the scheduled Governments, and his aggregate service would have qualified him, had it been wholly in the Colony, for a pension under these regulations,

he may, on his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service in the Colony a pension at the annual rate of one seven-hundred-and-twentieth of his pensionable emoluments for each complete month of his pensionable service in the Colony.

(2) Where the officer is not in the service of the Colony at the time of such retirement, his pensionable emoluments for the purpose of the preceding paragraph shall be those which would have been taken for the purpose 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 the service of the Colony.

10. Where a part only of the other public service of an officer to whom this Part of these regulations applies has been under one or more of the scheduled Governments, the provisions of regulation 8 shall apply; but in calculating the amount of pension, regard shall be had only to service in the Group.

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

11. Where an officer to whom this Part of these regulations applies retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not been in the public service in a civil capacity for ten years, he may be granted in respect of his service in the Colony a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 8, 9 or 10, as the case may be.

Gratuities where length of service does not qualify for pension.

Part IV. GENERAL.

12. (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 on leave.

General rules as to qualifying service and pensionable service.

(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.

Continuity
of service.

13. (1) Except as otherwise provided in these regulations only continuous 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 not arising from misconduct or voluntary resignation shall be disregarded for the purpose of this paragraph.

(2) An officer—

- (a) whose pension has been suspended under section 11 of the Ordinance or under a corresponding provision in any law or regulation relating to the grant of pensions in respect of public service ; or
- (b) who has retired from the public service without pension on account of ill-health, abolition of office, or reorganisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service ; or
- (c) who has left pensionable service under the Teachers (Superannuation) Act, 1925, with a view to entering public service not being service pensionable under the said Act and has, not later than three months after leaving such first mentioned service, received any salary in respect of employment in public service not so pensionable,

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

- (i) any pension previously granted to him from the funds of the Colony, 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.

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

Leave
without
salary.

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

Service in
His Majesty's
Forces.

16. For the purpose of computing the amount of an officer's pension or gratuity—

Emoluments
to be taken for
computation
of pensions,
etc.

- (1) 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 ;
- (2) 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, 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 ;
- (3) 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 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 increments which, in the opinion of the Governor in Council, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken;
- (iii) for the purpose of calculating pensionable emoluments under this paragraph, the officer shall be deemed to have been on duty on full pensionable emoluments throughout the said three years.

Service in a non-pensionable office.

17. Only service in a pensionable office shall be taken into account as pensionable service:

Provided that—

- (1) Where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office and the officer is confirmed therein, such period shall, with the approval of the Governor in Council, be so taken into account;
- (2) any break in service which may be disregarded under the provisions of regulation 13 of these regulations may likewise be disregarded in determining for the purposes of the preceding proviso whether one period of service immediately follows another period of service;
- (3) where an officer has been transferred from a pensionable office in which he has 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 in Council, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer, and at the pensionable emoluments which were payable to him at the date of transfer;

- (4) 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 6, 20 and 21 of these regulations to be holding a pensionable office, and where that period is taken into account under the preceding proviso, to have been confirmed therein.

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

Acting service.

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

and not otherwise.

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

Service under age of 20 or on probation or agreement.

- (1) any period of service while the officer was under the age of twenty years, or
- (2) any period of service while 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 13 of these regulations 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 re-
organization.

20. 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 by which greater efficiency or economy may be effected,

- (1) he may, if he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 11 of these regulations, a pension under regulation 4, 8, 9 or 10, as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (2) he may, if he retire from the service of the Colony, be granted an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each complete period of three years' pensionable service:

Provided that—

- (a) the addition shall not exceed ten sixtieths; and
- (b) 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 at which he may be required to retire without the approval of the Secretary of State, having received all increments for which he would have been eligible by that date.

Officers
retiring on
account of
injuries.

21. (1) If an officer holding a pensionable office in which he has been confirmed is permanently injured—

- (a) in the actual discharge of his duty, and
- (b) without his own default, and
- (c) on account of circumstances specifically attributable to the nature of his duty,

- (i) he may, if his retirement is thereby necessitated or materially accelerated and he has been in the public service for less than ten years, be granted, in lieu of any gratuity under regulation 5 or regulation 11 of these regulations, a pension under regulation 4, 8, 9, or 10, as the case may be, as if the words "for ten years or more" were omitted from the said regulation 4;
- (ii) he may, if so injured while in the service of the Colony, be granted on retirement an additional pension at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table:—

When his capacity to contribute to his own support is—

slightly impaired, five sixtieths;

impaired, ten sixtieths;

materially impaired, fifteen sixtieths;

totally destroyed, twenty sixtieths:

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

(2) An officer so injured while in the service of the Colony, not holding a pensionable office, or holding 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 might be granted to him under paragraph (1) of this regulation if his office were a pensionable office and he had been confirmed therein. The provisions of regulation 22 shall not apply to a pension granted under this paragraph.

3/55.

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

(4) An officer who is permanently injured while travelling by air in pursuance of official instructions shall be deemed to have been injured in the circumstances detailed in (a) and (c) of paragraph (1) :

Provided that in such a case and if (b) is also satisfied the rates of pension prescribed in that paragraph shall be seven and a half sixtieths, fifteen sixtieths, twenty-two and a half sixtieths and thirty sixtieths respectively.

(5) Neither sub-paragraph (ii) of paragraph (1) nor paragraph (2) of this regulation shall apply in the case of an officer selected for appointment to the service of the Colony who, in consequence of his injury, is entitled to compensation under the Workmen's Compensation Ordinance, or any Ordinance amending or replacing that Ordinance.

Gratuity and
reduced
pension.

2 of 1954.

22. (1) An officer to whom a pension is granted under the Ordinance shall, if he has exercised his option as hereinafter provided, but not otherwise, be paid in lieu of such pension a pension at the rate of three-fourths of such pension together with a gratuity equal to ten times the amount of the annual reduction so made in the pension.

(2) The option referred to in paragraph 1 of this regulation shall be exercisable, and if it has been exercised may be revoked, not later than the day immediately preceding the date of such officer's retirement :

Provided that the Governor may, if it appears to him equitable in all the circumstances so to do, allow him to exercise the option or revoke an option previously exercised at any time between that date and the actual date of award of pension under this Ordinance.

(3) Subject to the provisions of paragraph 2 of this regulation, if an officer has exercised the option his decision shall be irrevocable so far as concerns any pension to be granted to him under the Ordinance.

(4) If an officer who has not exercised the option dies after he has finally retired but before a pension has been awarded under the Ordinance, it shall be lawful for the Governor in Council to grant a gratuity and a reduced pension as provided in paragraph 1 of this regulation, as if the officer before his death had exercised the option.

(5) The date of the exercise of the option by an officer shall be deemed to be the date of the receipt of his written notification addressed either to the Colonial Secretary or to the Crown Agents for the Colonies.

(6) A re-employed officer or pensioner shall be deemed to have exercised, or not to have exercised, in respect of his service subsequent to re-employment, the said option, according as he exercised, or did not exercise, such option in respect of his previous service even if, in respect of such previous service, the option was not available to him.

23. (1) An officer holding a non-pensionable office who is not eligible for pension (other than a pension under regulation 21) or otherwise eligible for gratuity from the funds of the Colony may—

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

(a) if he has been in the public service for not less than seven years and is removed from the service of the Colony 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 economy can be effected ; or

(b) if he has been in the public service for not less than fifteen years and he retires in any of the other cases mentioned in section 6 of the Ordinance other than that mentioned in paragraphs (6) and (7) thereof,

be granted, if the Governor in Council thinks fit, a compassionate gratuity equal to one week's pay for each year of his service in the Colony which would be pensionable service if he were eligible for pension under these regulations.

(2) For the purpose of this regulation—

- (a) "pay" includes any allowance which the Governor in Council may think fit to include ;
- (b) regulation 13 may be disregarded, but directions may be given by the Governor in Council, either generally or in any particular case, for disregarding periods of service prior to breaks of three years or more, to dismissal for misconduct or to voluntary resignation, or periods during which an officer has served less than a number of days prescribed in the directions, and such directions shall have effect as if they were contained in this regulation ;
- (c) an officer who, having held a non-pensionable office, is serving on probation in a pensionable office, shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pensionable emoluments of the pensionable office or the pay last received by him in respect of his service in a non-pensionable office, whichever shall be the greater.

SCHEDULE.

Regulation 8.

Aden	Kenya
Bahamas	Kenya and Uganda Railways and
Barbados	Harbour Administration
Basutoland	Leeward Islands
Bechuanaland Protectorate	Malayan Establishment
Bermuda	Malta
British Guiana	Mauritius
British Honduras	Nigeria
British Solomon Islands Protectorate	Northern Rhodesia
Cayman Islands	Nyasaland
Ceylon	Palestine
Colonial Audit Department (Home Establishment)	St. Helena
Crown Agents for the Colonies	St. Lucia
Cyprus	St. Vincent
Dominica	Seychelles
Federated Malay States	Sierra Leone
Fiji	Somaliland
Gambia	Straits Settlements
Gibraltar	Tanganyika Territory
Gilbert and Ellice Islands Colony	Trinidad
Gold Coast	Turks and Caicos Islands
Grenada	Uganda
Hong Kong	United Kingdom of Great Britain and Northern Ireland
Jamaica	Zanzibar

Replaced.

3/55.

CHAPTER 50.

PLANT DISEASE.

REGULATIONS.

No. 4 of 1947.

Short title.

Section 3.

1. These regulations may be cited as the Plant Importation Regulations.

2. The Agricultural Officer shall be the prescribing authority.

Prescribing authority.

3. The Governor may appoint duly qualified persons who shall be termed Plant Inspectors to enforce the provisions of the Plant Disease Regulation Ordinance and of the regulations made under it. The Agricultural Officer shall be Chief Plant Inspector and all Customs Officers shall be Plant Inspectors.

Inspectors.

4. An inspector shall inspect all plants set out in the First Schedule and Third Schedule on their arrival in the Colony, and may inspect any other plant, seed, container, or covering imported into the Colony.

Duty to inspect on arrival.

5. For the purpose of these regulations, Plant Inspectors may board and inspect any ship on arrival in the Colony if there is reason to believe that such a ship has on board any plants, seed, soil, containers or coverings intended for importation into the Colony, and Plant Inspectors may enter land, enclosures or buildings (but not dwelling houses), and if any person impedes or obstructs or refuses such boarding of a ship or such entry to a Plant Inspector who states his business it shall be an offence.

Powers of Inspectors.

6. An inspector may—

- (a) detain any plant, seed, soil, container, or covering which, if permitted to enter, would, in his opinion, bring about the introduction of pests or plant disease such as would endanger the healthy growth of plants customarily grown in the Colony or intended to be grown therein ;
- (b) with the approval of the Agricultural Officer, order any plant to be planted for a period not exceeding twenty-four calendar months in a specified place set apart and used for the time being as a plant quarantine station ;

Quarantine.