

PENSIONS ACT
(CHAPTER 38)
PENSIONS REGULATIONS

Enactment No. 23 of 1957

Amended by

S 44/1958

S 18/1959

S 116/1959

S 53/1962

S 181/1963

S 191/1963

S 2/1964

S 52/1977

S 54/1977

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SUBSIDIARY LEGISLATION

PENSIONS REGULATIONS

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SUBSIDIARY LEGISLATION**Regulations made under section 3****PENSIONS REGULATIONS***Commencement: 1st March 1959**[S 33/1959]**1st December 1973 for regulation 24**[S 52/1977]***PART I****PRELIMINARY****Citation.**

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

Interpretation.

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

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

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

PART II**OFFICERS WITHOUT OTHER PUBLIC SERVICE****Application of Part II.**

3. Save when the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan*, in any special case otherwise directs, this Part shall not apply in the case of any officer transferred to or from 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 under the Government.

* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — *[S 36/1984]*

[Subsidiary]

Pensions to whom and what rates to be granted.

*4. Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government, who has been in service under the Government in a civil capacity for 10 years or more, may be granted on retirement a pension at the annual rate of one four-hundred and eightieth of his pensionable emoluments for each complete month of his pensionable service.

Gratuities where length of service does not qualify for pensions.

5. Every officer, otherwise qualified for a pension, who has not been in service under the Government in a civil capacity for 10 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.

Marriage gratuities.

6. Where a female officer, who has been in public service under the Government for not less than 5 years and has been confirmed in a pensionable office, retires or is required to retire from that service for the reason that she is about to marry or has married, and she is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part, she may be granted on production within 6 months after her retirement, or such longer period as His Majesty the Sultan and Yang Di-Pertuan may in any particular case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding —

(a) one year's pensionable emoluments; or

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

PART III

TRANSFERRED OFFICES

Application of Part III.

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

* Regulation 4 has effect in respect of an officer who has been granted or is receiving a pension on or after 1st December 1973 — [S 32/1977]

Interpretation.**8.** In this Part and Part IV —

“scheduled government” means the government of any territory, or any authority, mentioned in the Schedule and includes the government of Ceylon in respect of any officer appointed to the service of that government prior to 4th February 1948 and the government of Palestine, in respect of any officer appointed to the service of that government prior to 15th May 1948;

“service in the group” means service under the Government and under a scheduled government or scheduled governments.

Pension for service wholly within group.

9. (1) Where the other public service of an officer to whom this Part applies has been wholly under one or more scheduled governments and his aggregate service would have qualified him had it been wholly under the Government for a pension under the Act, 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 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 under the Government, as the aggregate amounts of his pensionable emoluments during his 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 under the Government —

(a) in the application of regulation 18, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of retirement from the public service during the 3 years preceding that date, as the case may be, except that where the officer is not serving under a scheduled government at the 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 sub-subregulation;

(b) no regard shall be had to an additional pension under regulation 22 or 23;

(c) regard shall be had to the condition that pension may not exceed three-fourths of his highest pensionable emoluments;

[Subsidiary]

(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 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 period of service in the group subsequent to the attainment of the age of 18 years:

Provided that —

(a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under the Government or a scheduled government in respect of which no pension or gratuity is granted to him by the Government or that scheduled government, as the case may be;

(b) where any service in a civil capacity otherwise than in 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.

Pension where other service not within group.

***10.** (1) Where the other public service of an officer to whom this Part applies has not included service under any of the scheduled governments, and his aggregate service would have qualified him, had it been wholly under the Government, 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 under the Government a pension at the annual rate of one four-hundred and eightieth of his pensionable emoluments for each complete month of his pensionable service under the Government.

(2) Where the officer is not in 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 purpose of computing his pension if he had retired from the public service and had been granted a pension at the date, of his last transfer from service under the Government.

* Regulation 10(1) has effect in respect of an officer who has been granted or is receiving a pension on or after 1st December 1973 — [S 32/1977]

Pension when other service both within and not within group.

11. 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 governments, the provisions of regulation 9 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.

12. Where an officer to whom this Part applies retires from the public service in circumstances in which he is permitted by the law or regulations of the services 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 10 years, he may be granted in respect of his 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 to him under regulation 9, 10 or 11, as the case may be.

Marriage gratuities.

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

(a) would have been eligible for a gratuity under regulation 6 if her public service had been wholly under the Government; and

(b) 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 9, 10 or 11 had there been no qualifying period and had regulation 9, 10 or 11, as the case may be, been applicable to her:

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

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

PART IV

GENERAL

General rules as to qualifying service and pensionable service.

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

(a) any period during which he is absent on leave; and

(b) the period of enemy occupation and any period subsequent thereto before an officer being an officer to whom section 5 of the repealed Pensions (Special Provisions) Enactment (Chapter 39 of 1951) applied resumed duty.

(2) No period which is not qualifying service by virtue of sub-regulation (1) 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.

15. (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 regulation:

Provided further that an officer who was holding office in the service of the Government of Palestine immediately before 15th May 1948 shall be deemed to have continued in that office until the date of his appointment to public service elsewhere or, if he was not so appointed, until the date of his retirement or removal from office.

(2) An officer —

(a) whose pension has been suspended under section 11 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 re-organisation designed to effect greater

efficiency or economy, and has subsequently been re-employed in the public service; or

(c) who has left the pensionable service under the Teachers (Superannuation) Act 1925 with a view to entering public service not being service pensionable under that Act and has, not later than 3 months after leaving the first mentioned service, received any salary in respect of employment in public service not so pensionable,

may, if the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan* 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 Brunei Darussalam; 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.

Leave without salary.

16. 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 Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan*.

Service in Her Britannic Majesty's Forces.

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

Emoluments to be taken for computing pension or gratuity.

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

* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

[Subsidiary]

(a) in the case of an officer who has held the same office for a period of one year 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 anytime during such period of one year 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 one year 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 one year 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 one year, and had received all scale increments which, in the opinion of His Majesty the Sultan and Yang Di-Pertuan in Council, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under sub-regulation (1) 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 one year immediately preceding the date of his retirement; and

(b) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period of one year.

(3) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of less than one year's 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 revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period.

Service in non-pensionable office.

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

Provided that —

(a) an officer to whom the provisions of the repealed Pensions Enactment (Chapter 38 of 1951) applied shall be deemed to have held a pensionable office from the date on which he began to qualify for a pension under that Enactment;

(b) 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 may, with the approval of the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan*, be so taken into account and, for the purpose of this proviso, any period of service during which the officer serves in a civil capacity in a pensionable office otherwise than on pensionable terms shall be deemed to be service otherwise than in a pensionable office;

(c) any break in service which may be disregarded under the provisions of regulation 15, may likewise be disregarded in determining for the purpose of proviso (b) whether one period of service immediately follows another period of service;

(d) 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 Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan*, 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;

* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

[Subsidiary]

(e) 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 purposes of regulations 6, 22 and 23 to be holding a pensionable office, and where that period is taken into account under the preceding proviso, to have been confirmed therein.

Acting service.

20. Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject, if the office is a non-pensionable office, to the provisions of regulation 19) 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 under the same government or authority, and not otherwise.

Service under age of 18 or on probation or agreement.

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

(a) any period of service while an officer was under the age of 18 years;
or

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

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

PART V**SUPPLEMENTARY****Abolition of office and re-organisation.**

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

(a) he may, if he has been in the public service for less than 10 years, be granted *in lieu* of any gratuity under regulation 5 or 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for 10 years or more” were omitted from regulation 4;

(b) he may, if he retires from service under the Government, be granted an additional pension at the annual rate of one-sixtieth of his pensionable emoluments for each complete period of the 3 years’ pensionable service:

Provided that —

- (i) the addition shall not exceed ten-sixtieths; 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 at which he may retire without the approval of His Majesty the Sultan and Yang Di-Pertuan in Council, having received all increments for which would have been eligible by that date.

Officer retiring on account of injuries.

23. (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;
- (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 10 years, be granted, *in lieu* of any gratuity under regulation 5 or 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for 10 years or more” were omitted from regulation 4;
 - (ii) he may, if so injured while in service under the Government, 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 —

[Subsidiary]

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 His Majesty the Sultan and Yang Di-Pertuan 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 service under the Government 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 sub-regulation (1) if his office were a pensionable office and he had been confirmed therein. The provisions of regulation 24 shall not apply to a pension granted under this regulation.

(3) If an officer proceeding by a route approved by the Minister to or from Brunei Darussalam at the commencement or termination of his service therein, or of a period of leave therefrom, is permanently 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 such vessel, aircraft or vehicle, and His Majesty the Sultan and Yang Di-Pertuan is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty the Sultan and Yang Di-Pertuan may be engaged, such officer shall be deemed for the purposes of this regulation to have been injured in the circumstances described in sub-regulation (1):

Provided that this regulation shall not apply in the case of an officer who is eligible to receive an award under sub-regulation (4).

(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 sub-regulation (1)(a) and (c):

Provided that in such a case and if sub-regulation (1)(b) is also satisfied, the rates of pension prescribed in that sub-regulation shall be seven and a half-sixtieths; fifteen-sixtieths; twenty-two and a half-sixtieths and thirty-sixtieths, respectively.

(5) Sub-regulation (1)(ii), (2), (3) and (4) shall not apply in the case of an officer selected for appointment to service under the Government after the commencement of the Workmen's Compensation Act (Chapter 74), who in consequence of his injury receives compensation under that Act.

Gratuity and reduced pension.

****24.** (1) Any officer to whom a pension is granted under the Act may, at his option exercisable as in this regulation provided, be paid *in lieu* of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to fifteen times the amount of the reduction so made in the pension:

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

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

(a) shall be exercised or revoked by notice in writing addressed to the Minister;

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

(c) shall be exercisable, and if exercised, may be revoked, on or before the date of the officer’s retirement:

Provided that His Majesty the Sultan and Yang Di-Pertuan may, if he thinks fit, permit an officer to exercise the option at any time between that date and the date on which pension is granted to him.

(3) For the purposes of this regulation, the date of the final award shall be the date on which an officer’s pension is granted to him.

(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 Act, it shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan*, to grant a gratuity and a reduced pension as provided in sub-regulation (1), as if the officer before his death had exercised the option.

(5) An officer who is paid a reduced pension under sub-regulation (1) shall, after the expiration of 15 years from the date of his retirement, be eligible for the full pension as if there had been no reduction.

* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

** Regulation 24 shall be deemed to have come into force on 1st December 1973 — [S 52/1977]

SCHEDULE

(regulation 8)

SCHEDULED GOVERNMENTS

Aden
Antigua
Bahamas
Barbados
Bermuda
British Guiana
British Honduras
Cayman Islands
Crown Agent for Overseas Governments and Administrations
Cyprus
East Africa High Commission
East African Railways and Harbour Administration
Employing authorities under the Overseas Superannuation Scheme
Falkland Islands
Federated Malay States
Federation of Malaya
Fiji
Gambia
Ghana
Gibraltar
Gold Coast
Hong Kong
Jamaica
Kenya
Kenya and Uganda Railways and Harbour Administration
Leeward Islands (before 1st July 1956)
Malayan Establishment
Malay Union
Malaysia
Malta
Mauritius
Monserrat
Nigeria
Federation of Nigeria
Eastern Region of Nigeria
Western Region of Nigeria
Northern Region of Nigeria
North Borneo
Northern Rhodesia
Federation of Rhodesia and Nyasaland
Oversea Audit Department (Home Establishment)

SCHEDULE

SCHEDULED GOVERNMENTS — (*continued*)

St. Christopher Nevis and Anguilla
St. Helena
Sabah
Sarawak
Seychelles
Sierra Leone
Singapore
Somaliland Protectorate
Straits Settlements
South Africa High Commission
 Basutoland
 Bechuanaland Protectorate Swaziland
Tanganyika
Trinidad
Turks and Caicos Island
Uganda
Unfederated Malay States
United Kingdom of Great Britain and Northern Ireland
Virgin Islands
West Indies (Federation)
Western Pacific
 Gilbert and Ellice Islands Colony
 British Solomon Islands Protectorate
 New Hebrides
 Tonga
Windward Islands:
 Dominica
 Grenada
 St. Lucia
 St. Vincent
Zanzibar