

Fide 33/43
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17/50
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CHAPTER 9. No. 6.

PENSIONS.

~~26/44~~
~~27/44~~

Ordinances AN ORDINANCE TO REGULATE PENSIONS, GRATUITIES AND OTHER
No. 16—1934. ALLOWANCES TO BE GRANTED IN RESPECT OF THE PUBLIC
" 21—1938. SERVICE OF OFFICERS IN THE COLONY.
" 16—1940.

11 50/1946
Commencement.

[1st August, 1934.]

Short title. 1. This Ordinance may be cited as the Pensions Ordinance.

Interpretation. 2. In this Ordinance—

for new definition
Fide sec 2 of
33/43

Vide sec 2.
2/17/50

“ officer ” or “ public officer ” means a person sub-
stantively appointed to an office in the public service;

“ pensionable emoluments ” in respect of service in the
Colony includes salary, personal allowance, house allowance
or the estimated value of free quarters, and any fees paid
out of the Treasury by way of salary: Provided that the
amount to be allowed for house rent or for estimated
value of free quarters shall not exceed one-sixth, nor the
amount to be allowed for fees one-fourth, of the actual
salary of the office;

“ pensionable emoluments ” in respect of other public
service means emoluments which count for pension in
accordance with the law or regulations in force in such
service;

“ salary ” means the actual salary attached to an office:
Provided that in the case of an officer retiring on or after
the 1st of July, 1920, the term salary shall include 75 per
centum of the additional salary being drawn by the officer
at the time of his retirement from the Colony, under the
authority of the resolution of the Legislative Council of
the 15th of October, 1920, or any subsequent resolution
of similar import;

“ personal allowance ” means a special addition to
salary granted personally to the holder for the time being
of the office;

“ public service ” or “ service ” means service in a civil
capacity under the Government of the Colony or the
Imperial Government, or the Government of India or of a

British Dominion, Colony or Protectorate, or a territory under a British Mandate, and any such other service as the Secretary of State may determine to be "public service" for the purpose of any provision of this Ordinance or the regulations made thereunder:

Service as a Governor or High Commissioner of a British Dominion, Colony or Protectorate, or a territory under British Mandate, or as a Governor in India, shall be deemed to be public service except for the purposes of computation of pension or gratuity and of sections 13 and 14;

"other public service" means public service not under the Government of the Colony;

"service in the group" means public service under the Government of the Colony and under a Scheduled Government or Governments;

"Scheduled Government" means the Government of any place which is included in the First Schedule to this Ordinance, or any Government which may from time to time be declared by the Governor in Council to be a Scheduled Government *and include the Government of Ceylon etc.*
Under section 2 of Ord. No. 28/50.

3. The Governor in Council may by notice published in the *Royal Gazette* vary the First Schedule hereto by adding thereto any other Government or removing therefrom any Government included or added thereto. Any such notice of variation shall be laid before the Legislative Council.

Governor in Council may vary 1st Schedule.

4. (1) Pensionable offices in respect of service in the Colony shall be of two grades to be designated as Grade I. and Grade II. Pensionable offices of either grade shall be those offices which have been declared by the Governor in Council, with the sanction of the Secretary of State, by notification published in the *Royal Gazette*, to be pensionable in the one or the other grade respectively.

Pensionable offices.

(2) Officers serving in offices in Grade I. shall be eligible for full pension privileges, gratuities or other allowances subject to the provisions of this Ordinance and the regulations made thereunder. Officers serving in offices in Grade II. shall be eligible for pension, gratuity or other allowance at three-fourths the rate for which they would have been eligible if they had served in an office in Grade I.: Provided that where service in an office in Grade I. has been immediately preceded by an unbroken period of service in an office in Grade II., the whole

*Repealed by
Sec. 3
of 28/50*

period of service may be taken into account as though it were service in an office in Grade I.

(3) Pensionable office in respect of other public service means an office which is a pensionable office under the law or regulations in force in such service.

Transfer of pensionable offices from one grade to another.

5. (1) The Governor in Council may, with the sanction of the Secretary of State, by notice published in the *Royal Gazette*, transfer from one grade to the other any pensionable office, or declare any pensionable office of either grade to be no longer pensionable, due regard being had to existing rights.

(2) Where a pensionable office has been transferred from one grade to another, or a pensionable office has been declared to be no longer pensionable, and the rights of the holder of such office have been preserved, such rights shall be preserved so long as the officer continues in that office (whether his salary has been increased or not), but immediately he is transferred to another office, the conditions set out in the following subsections shall apply.

(3) Subject to the provisions of subsection (2) of section 4 an officer who has been transferred from an office of a higher grade to one of a lower grade may, by notice in writing to the Colonial Secretary within one month of his transfer, elect to count the whole of his service under the Government of the Colony as service in the higher grade, but only on the basis of the salary which he received immediately prior to his transfer; if he does not so elect, then the whole of his service under the Government of the Colony shall count as service in the lower grade on the basis of the salary which he will have drawn in that grade at the time of his retirement.

(4) Where an officer has been transferred from a pensionable office to an office as holder of which he is required to become a depositor under the Provident Fund Ordinance, or any Ordinance amending or replacing the same, the provisions of that Ordinance shall apply.

Governor may make regulations.

6. (1) It shall be lawful for the Governor in Council, with the sanction of the Secretary of State, to make regulations for the granting of pensions, gratuities, and other allowances to officers who have been in the public service of the Colony. Every such regulation when made shall be laid before the Legislative Council, and shall be published in the *Royal Gazette*.

Referred to
of 23/6/23

(2) The said regulations shall have the same force and effect for all purposes as if they were contained in this Ordinance and the term "this Ordinance" shall in the following sections be read and construed to include such regulations.

(3) The regulations contained in the Second Schedule hereto shall be in force until varied or revoked. 2nd Schedule.

7. There shall be charged on and paid out of the general revenue of the Colony all such sums of money as may from time to time be granted by way of pension, gratuity, or other allowance in accordance with this Ordinance to officers who have been in the public service of the Colony. Pensions to be charged on general revenue.

8. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance under this Ordinance, nor shall anything herein or in the regulations contained limit the right of the Crown to dismiss any officer without compensation. Pension or other allowance, not of right. Ord. 21-1938, s. 2.

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

9. (1) No pension, gratuity or other allowance shall be granted to any officer in respect of any service— Service for pension. Ord. 21-1938, s. 2.

(a) while on probation or agreement, unless without break of service he is confirmed in a pensionable office in the Colony or in an office in other public service which is at the time of confirmation pensionable under the pension law applicable to such service; or

(b) while under the age of twenty years.

(2) Only service in a pensionable office shall be taken into account as pensionable service: Pensionable service.

Provided that where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office, one-half of such period may with the approval of the Governor in Council be so taken into account: Part of non-pensionable service that may be taken into account.

Provided further that any break in service which may be disregarded under the provisions of any law or regulation which so permits may likewise be disregarded in determining for the purposes of this section whether a period of service is unbroken

Repealed by Sec. 4 of 32/43

or whether one period of service immediately follows another period of service.

Reservation of rights in case of temporary transfer.

(3) Where an officer is seconded or temporarily transferred for duty in the service of the Colony from a pensionable office to an office or employment which would not entitle him to pension under this Ordinance, the period during which he shall serve in such office or employment as aforesaid shall count for pension as if the officer had not been seconded or temporarily transferred unless the Governor in Council shall in any case otherwise decide.

War service to count for pension purposes.
Ord. 16-1940,
s. 2.

(4) Where an officer shall have served with His 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 His Majesty's Forces including any period after the termination of the war (in this subsection referred to as "military service"), he shall be deemed, for the purposes of this Ordinance, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to military service;

(b) During any period between his leaving the public service for the purpose of serving in His Majesty's Forces and the date of his commencing military service, he shall, for the purposes of this Ordinance, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed:

Provided that—

(i) this subsection shall not apply when either period mentioned in paragraph (b) of this subsection 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 His Majesty's Forces, to re-enter the public service otherwise

than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined as aforesaid, after the termination of his military service;

(ii) if during any period mentioned in paragraph (a) of this subsection the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (a) of this subsection 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 section 18 and of regulation 12 in the Second Schedule hereto be deemed to have been injured or killed in the discharge of his duty;

(iv) the provisions of this subsection 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 subsection shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

(5) Nothing in subsection (4) of this section shall affect the application or operation of regulation 8 (3) in the Second Schedule hereto in respect of service with His Majesty's Forces during the war which began on the 4th of August, 1914.

Sec. 9A - Para 33/43. Sec. 9B - 33/43 - Sec 9C - s. 3. 5/46

10. It shall be lawful for the Governor in Council to require an officer to retire from the service of the Colony at any time after he attains the age of sixty years or, in special cases, with the approval of the Secretary of State, at any time after he attains the age of fifty years.

11. (1) Except in the cases hereinafter provided, no pension, gratuity, or other allowance shall be granted to any officer who

Saving of rights under regulation 8 (3) in the 2nd Schedule.

Ord. 16-1940,

s. 3. 5/46

Age of compulsory retirement.

Ord. 21-1938, s. 2.

Circumstances in which

pensions may be granted. Officer may be granted pension at 55 years, or earlier on account of ill-health.

Ord. 21-1938, s. 2.

has not attained the age of fifty-five years (in special cases, with the approval of the Secretary of State, fifty years), unless on medical evidence to the satisfaction of the Governor in Council 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: Provided that the consent of the Secretary of State shall be obtained in respect of—

- (a) an officer recruited from the United Kingdom;
- (b) an officer who is a member of a unified branch of the service;
- (c) an officer occupying any other post of which the initial emoluments are not less than two thousand dollars per annum.

Age limit in respect of other public service.

(2) If an officer is transferred to other public service and ultimately retires at an age less than fifty-five years at which he is permitted by the law or regulations of that service to retire with a pension, the pension which may be granted to him from the revenue of the Colony under this Ordinance shall be payable from the date of retirement of such officer, notwithstanding that he shall not be fifty-five years of age.

Officer unable to discharge his duties may be retired.

vide sec. 6 of 33/43

(3) Where an officer is removed from his office on the ground of his inability to discharge efficiently the duties thereof, and a pension, gratuity, or other allowance cannot otherwise be granted to him under the provisions of this Ordinance, the Governor in Council, ~~with the approval of the Secretary of State,~~ may if he considers it justifiable, having regard to all the circumstances of the case, grant such a pension, gratuity, or other allowance as he thinks just and proper, but in no case exceeding in amount that for which the officer would be eligible if he were suffering from some infirmity of mind or body likely to be permanent.

Officer may be retired on abolition of office.

(4) If any officer holding a pensionable office retire or be removed 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 and economy can be effected, he may be granted a temporary pension, subject to the condition that he shall hold himself ready to be recalled to service: Provided that if such officer is not qualified for other employment or if there is no reason, in the opinion of the Governor,

to expect that he can be re-employed, a pension may be granted to him free from the above-mentioned condition.

(5) If an officer on retirement in any circumstances is eligible for a pension under the Pensions (Governors of Dominions, &c.) Act or any Act replacing or amending the same, he shall be eligible for a pension under this Ordinance notwithstanding that such officer has not attained the age of fifty-five years.

Pension to
Governors.

(6) Where a female officer resigns on or with a view to marriage, or is required to retire on account of her marriage, she may be granted a gratuity notwithstanding that she is not otherwise eligible under this Ordinance for the grant of any pension, gratuity or other allowance.

Gratuity to
female officer
retiring on
account of her
marriage.

12. Every pension granted to an officer shall be subject to the following condition,—

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

(a) unless or until he has attained the age of fifty-five years, he may, if physically fit for service, be called upon by the Secretary of State to accept, in lieu of his pension, an office, whether in the service of the Colony or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he held at the date of the grant of his pension;

(b) if a pensioner so called upon declines to accept the office for which he may have been selected, the payment of his pension may be suspended until he has attained the age of fifty-five years.

13. Except in cases provided for in subsection (1) of section 14, no pension granted to an officer under this Ordinance shall exceed two-thirds of the highest pensionable emoluments drawn by the officer at any time in the course of his service.

Maximum
pension.
Ord. 21-1938,
s. 4.

14. (1) Where an officer has been or is granted a pension or pensions in respect of other public service, he may be granted the full pension for which he is eligible in respect of his service in the Colony, but no officer may at any time draw from the funds of the Colony an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such officer at any time in the course of his service in the Colony or in other public service:

Maximum
pension when
officer
entitled to
pension from
other public
service.

Provided that where such 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 four-thirds of its actual amount.

(2) In a case falling under the limitation laid down by subsection (1) of this section the amount of pension to be drawn from the funds of the Colony shall be subject to the approval of the Secretary of State in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

(3) For the purpose of the preceding subsections, an allowance granted in respect of injury shall not be taken into account; but, where the officer is granted such an allowance, the amount of such allowance which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such allowance, falls short of two-thirds of such highest pensionable emoluments.

Gratuity and
reduced
pension.
Ord. 21-1938,
s. 5.

15. (1) An officer who was in the service of the Colony on the 1st of August, 1934, or who having been in that service was at that date in other public service and to whom a pension is granted under this Ordinance may, at his option exercisable as hereinafter 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 ten times the amount of the reduction so made in the pension.

(2) The option referred to in subsection (1) of this section shall be exercisable not later than one month after the earliest date on which, if retired on grounds of ill health, the officer might be awarded a pension under this Ordinance: Provided always—

(a) that an officer who has previously had the opportunity of exercising the option but has not done so, and who is still in the service of the Colony or in any other public service, may apply within one month of his subsequent marriage for permission to exercise the option, which permission may be granted at the Governor's discretion after examination of the officer by a Government Medical Board, and upon the grant of such permission the option shall be deemed to have been exercised;

(b) that the date of the exercise of the option shall be deemed to be the date of the receipt of his written notification addressed either to the Colonial Secretary in the Colony or to the Crown Agents for the Colonies; and

(c) that if an officer has exercised the option his decision shall be irrevocable so far as concerns any pension ultimately to be granted to him under this Ordinance.

(3) Any officer to whom subsection (1) of this section does not apply and who is otherwise eligible for pension shall, subject to the provisions of this Ordinance, be granted a reduced pension and gratuity calculated in the manner prescribed in the said subsection.

(4) Notwithstanding anything contained in the preceding subsections an officer who is permitted to continue in the public service after he attains the age of sixty years, at his own request and not for the convenience of the service, shall, subject to the provisions of this Ordinance, be granted an unreduced pension in lieu of reduced pension and gratuity.

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

Pension payable to officer after re-employment.

Ord. 21-1938, s. 6.

17. When an officer holding a pensionable office who is not serving on probation or agreement, dies while in the service of the Colony, it shall be lawful for the Governor in Council to grant—

Gratuity to estate where officer dies in service of Colony.

Ord. 21-1938, s. 7.

(a) to the legal personal representative of an officer who held an office in Grade I. at the time of his death, a gratuity of an amount not exceeding one year's pensionable emoluments of such officer;

(b) to the dependants (if any) of an officer who held an office in Grade II. at the time of his death, a gratuity of an amount not exceeding nine months' pensionable emoluments of such officer, the amount to be divided among the dependants in such proportion as the Governor in Council shall think fit.

Repealed by Sec. 7 of 33/43

18. (1) Where an officer holding a pensionable office, who is not serving on probation or agreement, dies as the direct result of injuries received—

Pensions, etc., to dependants when an officer is killed on duty.

Ord. 21-1938, s. 7.

(a) in the actual discharge of his duty, and

Repealed by Sec. 8 of 33/43

(b) without his own default, and

(c) on account of circumstances specifically attributable to the nature of his duties,

while in the service of the Government of the Colony, it shall be lawful for the Governor in Council to grant in addition to the grant, if any, made to his legal personal representative or dependants in accordance with the immediately preceding section—

(i) if the deceased officer leaves a widow, a pension to the widow, while unmarried and of good character at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or \$48 a year whichever be the greater, and also a gratuity not exceeding \$4.80 multiplied by the total number of their years, starting from their ages at the time of their father's death, and ending with fifteen years, to each child alive at the date of the father's death, and a gratuity not exceeding \$72 to any posthumous child:

Provided that the gratuities so granted shall not in the aggregate be less than \$48 nor more than \$288;

(ii) if the officer's wife predeceases him or if no pension is granted to her under the preceding paragraph (i), and he leaves children who would have been eligible for gratuity if a pension had been granted to the widow, gratuities of twice the amount of the gratuities for which they would have been eligible in such circumstances;

(iii) if the deceased officer does not leave a widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, at a rate not exceeding the rate of the pension which might have been granted to his widow:

Provided that—

(a) if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of remarriage; and

(b) if the mother is not a widow and it appears that the deceased's father is in a position to support her, such pension shall cease from such date as the Secretary of State may determine.

(2) When an officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in subsection (1)

*Repealed by Sec. 8
of 1933/34*

of this section, it shall be lawful for the Governor in Council to grant the pension or gratuities which might have been granted if his case had fallen under such subsection, but no grant shall be made under the immediately preceding section.

19. No pension, gratuity or other allowance granted under this Ordinance shall be assignable or transferable, or liable to be attached, sequestered, or levied upon, for or in respect of any debt or claim whatsoever other than a debt due to the Government of the Colony and except as provided for in the next succeeding section.

Pensions not assignable or attachable.

20. (1) Where an order of maintenance has been made by a court of competent jurisdiction against any person to whom a pension has been granted, it shall be lawful for the Governor, on its being proved to him that there is no reasonable probability of such order being satisfied, from time to time to deduct from the moneys payable to such person by way of pension such sum or sums as the Governor may deem expedient, and to apply the same to satisfy wholly or in part the said order.

Governor may apply part of a person's pension towards the maintenance of his wife or children.

(2) Where any person to whom a pension has been granted has left the Colony and deserted and left his wife or child within the Colony without sufficient means of support, the Governor, on being satisfied that such wife or child is by reason of such person's absence from the Colony unable, and would but for such absence be able, to obtain an order of maintenance, may from time to time deduct from the moneys payable to such person by way of pension such sum or sums as the Governor may deem expedient, and may apply the same for the maintenance and support of such wife or child.

(3) Where any person to whom a pension has been granted has been adjudicated a person of unsound mind, and has a wife or a child or children living, the Governor may deduct from the moneys payable to such person by way of pension such sum or sums as he may deem expedient and apply the same for the maintenance and support of the wife or any child or children of such person.

Ord. 21-1938,
s. 8.

21. If any officer to whom a pension or other allowance has been granted under this Ordinance is adjudicated a bankrupt or is declared insolvent by judgment of the court, then such pension or allowance shall forthwith cease:

Pensions, etc., to cease on bankruptcy.
Ord. 21-1938,
s. 9.

Provided always that in any case where a pension or allowance ceases by reason of the bankruptcy or insolvency of the

pensioner, it shall be lawful for the Secretary of State, or if such pensioner is resident in the Colony then for the Governor, from time to time during the remainder of such pensioner's life, or during such shorter period or periods, either continuous or discontinuous, as the Secretary of State or the Governor as the case may be shall think fit, to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension or allowance, had he not become a bankrupt or insolvent, to be paid to or applied for the maintenance and personal support or benefit of all or any, to the exclusion of the other or others, of the following persons, namely, such pensioner and any wife, child or children of his, in such proportions and manner as the Secretary of State or the Governor as the case may be thinks proper, and such moneys shall be paid or applied accordingly.

Pensions, etc.,
to cease on
conviction.

Ord. 21-1938,
s. 9.

22. If any officer to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent court whether within or without the Colony for any crime or offence, then in every such case, it shall be lawful for the Secretary of State, or if the person is resident in the Colony the Governor, to direct that such pension or allowance shall forthwith cease:

Provided always that the pension or allowance shall be restored with retrospective effect in the case of a person who after conviction at any time receives a free pardon:

Provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Secretary of State or the Governor as the case may be to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance to be paid to or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of bankruptcy hereinbefore provided.

Pensions, etc.,
to cease on
accepting
certain
appoint-
ments.

Ord. 21-1938,
s. 9.

23. If any officer to whom a pension or other allowance has been granted under this Ordinance becomes either a director of any company the principal part of whose business is in any way directly concerned with the Colony, or an officer or servant employed in the Colony by any such company, without in

every such case the permission of the Governor in writing first had and obtained, then in every such case it shall be lawful for the Governor to direct that such pension or allowance shall forthwith cease:

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

24. In any case in which doubt shall arise, the Governor in Council, subject to the approval of the Secretary of State, shall have full power and authority to determine who shall be considered public officers within the meaning of this Ordinance, and to decide all questions which may arise in respect to the period of service to be allowed in computing the claims of officers, and likewise all questions that may arise in respect to the pension, gratuity or other allowance to be granted to any officer whose official emoluments may have been derived partly from salary and partly from fees or other allowances; and also all other questions of whatever nature which may arise in connection with the provisions of this Ordinance and of the regulations made hereunder.

Governor in Council to decide questions arising under the Ordinance.

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

Application of the Ordinance.

(a) to all officers appointed to the public service of the Colony after the 1st of August, 1934; and

(b) to all officers in the service of the Colony on the 1st of August, 1934, and to all officers who, having been in the service of the Colony, have before that date been transferred to other public service and are still serving at that date, unless within one year of such date, any such officer shall have given notice in writing to the Colonial Secretary of his desire that the provisions of the Ordinances and regulations repealed by this Ordinance shall continue to apply to him.

or such longer period as the Governor may in any special case allow.

vide Sec. 9 of 33/43.

Repeal.
Ord. 16-1934,
s. 26 (1).

(2) The Ordinances and regulations repealed by this Ordinance are those specified in the Third Schedule hereto:

Saving
existing rights
to pensioners.

Provided that such repeal shall not nor shall anything in this Ordinance affect the pensions granted to any persons who have retired from the public service before the 1st of August, 1934.

Saving
clause.

Ord. 21-1938,
s. 10.

26. (1) Notwithstanding anything contained in subsection (2) of section 9 hereof and in regulations 13 and 14 in the Second Schedule hereto, where an officer in the service of the Colony or in other public service on the 1st of December, 1938, had before that date served in a civil capacity otherwise than in a pensionable office, then, if it should be to his advantage, his pension may be calculated on the conditions which would apply if subsection (2) of section 9 of Ordinance No. 16 of 1934, as originally enacted, had continued in force and if for the first paragraph of regulation 13 in the Second Schedule hereto there were substituted the first paragraph of regulation 13 in the Second Schedule to Ordinance No. 16 of 1934, and as if the second proviso to regulation 14 (3) in the Second Schedule hereto were omitted.

(2) Where, prior to the 1st of December, 1938, an officer has been granted a pension under Ordinance No. 16 of 1934, and has been appointed to another office in the service of the Colony, any pension granted to him on his subsequent retirement may be computed as if section 16 of that Ordinance, as originally enacted, had continued in force.

Idem.
Pensions
Regulations,
1938, para. 22.

27. The regulations numbered 11, 12 and 17, as set out in the Fourth Schedule hereto, which formed part of the Pensions Regulations, 1934, have been revoked with effect from the 1st of January, 1939:

Provided that for the purpose of computing the pension of an officer who shall have held any office mentioned in paragraph (2) of the said regulation 11 prior to the 1st of January, 1939, the said regulations 11, 12 and 17 shall be deemed to continue in force in respect of his tenure of that office, but no service subsequent to his appointment on or after that date to any other office whether in the Colony or in other public service shall be taken into account as service in an office

mentioned in paragraph (2) of the said regulation 11 in computing an addition to his pension under those regulations.

28. The Pensions (Amendment) Ordinance, 1933, shall continue in force and be read as one with this Ordinance, and the reference therein to section 8 (a) of the Principal Ordinance shall be read as a reference to subsection (1) of section 15 of this Ordinance.

Ordinance
No. 38 of 1933
to continue
in force.

Ord. 16-1934,
s. 26 (2).

SCHEDULES.

FIRST SCHEDULE.

Scheduled Governments.

Great Britain and Northern Ireland, including service which is pensionable under the Teachers' (Superannuation) Act, 1925, being 15 and 16 Geo. 5, Cap. 59 of the Imperial Parliament.

The Office of the Crown Agents for the Colonies.

The Colonial Audit Department (Home Establishment).

Aden.

Bahamas.

Barbados.

Basutoland.

Bechuanaland.

Bermuda.

British Guiana.

British Honduras.

British Solomon Islands

Protectorate.

Ceylon.

Cyprus.

Falkland Islands.

Federated Malay States.

Fiji.

Gambia.

Gibraltar.

Gilbert and Ellice Islands Colony.

Gold Coast.

Grenada.

Hong Kong.

Jamaica.

Kenya.

Kenya and Uganda Railways and
Harbour Administration.

Leeward Islands.

Malta.

Mauritius.

New Hebrides.

Nigeria.

Northern Rhodesia.

Nyasaland.

Palestine.

Seychelles.

Sierra Leone.

Somaliland.

St. Helena.

St. Lucia.

St. Vincent.

Straits Settlements.

Swaziland.

Tanganyika Territory.

Tonga.

Turks and Caicos Islands.

Uganda.

Zanzibar.

(Section 2.)

Royal Gazette,

1935, p. 209.

1936, p. 914.

„ p. 1055.

1938, p. 1060.

(Section 6(3).)
Royal Gazette,
 1 Dec. 1938.

SECOND SCHEDULE.

Regulations for the granting of Pensions, Gratuities and other Allowances to Public Officers.

PART I.

Regulations of general application.

- Short title. 1. (1) These regulations may be cited as the Pensions Regulations, 1938.
 (2) In these regulations " Ordinance " means the Pensions Ordinance.
- Pensions to whom and at what rate to be granted. 2. Subject to the provisions of the Ordinance and of these regulations, every officer holding a pensionable office in the service of the Colony who has been in such service for ten years or upwards may be granted on his retirement a pension at the rate of 1/600ths of his pensionable emoluments in respect of each complete month of service until the maximum of two-thirds (400/600ths) is reached.
- Gratuities. 3. An officer, otherwise qualified for a pension, who has not completed ten years' service 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 No. 2.
- Gratuity to female officer retiring on account of her marriage. 4. Where an officer being a woman and having held a pensionable office or offices in the Colony for not less than five years and having been confirmed in a pensionable office, resigns from the service of the Colony on or with a view to marriage, or is required to retire from the service of the Colony on account of her marriage, she may be granted, on production within six months after her resignation or retirement, or such longer period as the Governor in Council may in any particular case allow, of satisfactory evidence of her marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each completed month of pensionable service in the Colony, provided that such gratuity shall not in the case where the officer resigns on or with a view to marriage, exceed one year's pensionable emoluments.
- Period of service in the Colony qualifying for pension or gratuity defined. 5. Subject to the provisions of section 9 of the Ordinance and of these regulations, service qualifying for pension, gratuity or allowance as the case may be shall be the inclusive period between the date on which an officer begins to draw salary or half salary from the funds of the Colony and the date of his leaving the service of the Colony.
- Service to be unbroken. 6. Service in respect of which pension, gratuity or allowance will be granted must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment not arising from misconduct or gross negligence or voluntary resignation:
 Provided that service prior to a break of service may be allowed to count for pension together with service subsequent to such break if the whole intervening period has been spent in some other employment under the Crown.
- Special provisions relating to employment after break of service. 7. Notwithstanding the provisions of the preceding regulation No. 6, an officer—
 (a) whose pension has been suspended under section 16 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 re-organization designed to effect greater efficiency and economy, and has subsequently been re-employed in the public service, or

(c) who has left service pensionable 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:

Provided that in calculating a pension granted in pursuance of this regulation, no account shall be taken for any purposes of the period during which he was not in public service.

8. (1) For the purpose of computing the amount of an officer's pension, gratuity or allowance, the following periods shall be taken into account as pensionable service:

Computation of pensions and gratuities. Periods of service and absence.

(a) any periods during which he has been on duty;

(b) any period during which he received half salary from the funds of the Colony while proceeding to the Colony on first appointment;

(c) any periods during which he has been absent from duty on leave with full pay;

(d) any periods during which he has been absent from duty on leave either on partial pay or without salary, granted on grounds of public policy with the approval of the Secretary of State and during which he has not qualified for pension or gratuity in respect of other public service.

(2) The periods during which an officer has been absent on leave on half-pay shall, for the purposes of these regulations, be counted at the rate of one month for every two months of such period.

Absence on half-pay leave.

(3) Any period during which an officer absent on leave from the Colony has, with the consent of the Governor or the Secretary of State, served with His Majesty's armed forces during the late war (1914-1918), or in any other capacity connected with the state of war, may be counted as service on full pay.

War service.

(4) Any periods during which he has been absent on leave, other than those specified above, shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

Periods not taken into account.

9. Where an officer has performed acting service in a pensionable office in the Colony, the period of such service may be taken into account as pensionable service: Provided that—

Acting service.

(a) the period of such acting service was not part of the pensionable

service of the substantive holder of the office and does not fall to be reckoned as part of the officer's own pensionable service in other public service; and

(b) this period of service is immediately preceded or followed by service in the Colony in a substantive capacity in a pensionable office or, subject to the provisions of subsection (2) of section 9 of the Ordinance, in a non-pensionable office.

Computation of pensions, etc. on what emoluments to be based.

10. For the purpose of computing the amount of an officer's pension, gratuity, or allowance—

(a) in the case of an officer who has held one office for a period of three years immediately preceding the date of his retirement, the full pensionable emoluments payable to 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, the full pensionable emoluments payable to 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 payable to the officer in respect of his service during the said three years shall be taken:

Provided that—

(i) if such one-third is less than the full pensionable emoluments which were payable to him at the date of his transfer within such period of three years the Governor in Council may grant him a pension calculated on the full pensionable emoluments payable to him at that date; and

(ii) for the purposes 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.

Rates of pension or gratuity when office abolished.

11. (1) In the case of an officer who retires, or is removed from office, in circumstances contemplated by subsection (4) of section 11 of the Ordinance, and who is otherwise eligible for pension, his pension may be increased at the rate of the number of 720ths of his pensionable emoluments exceeding the pension allowed under regulation No. 2 by the numbers following (that is to say):—

In the case of an officer who has served—

(a) 20 years and upwards	...	...	...	...	...	...	60
(b) less than 20 years, but not less than 17 years	...	...	...	...	...	...	48
(c) less than 17 years, but not less than 15 years	...	...	...	...	...	...	36
(d) less than 15 years, but not less than 12 years	...	...	...	...	...	...	24
(e) less than 12 years, but not less than 10 years	...	...	...	...	...	...	12

(2) No additional pension shall be granted under paragraph (1) of this regulation so as to entitle an officer to a higher total pension than the maximum of two-thirds of his pensionable emoluments at the date he ceased to be in the service of the Colony or than the pension for which he would have qualified by length of service on reaching the age of sixty years whichever shall be the lower amount.

(3) If the officer has been in the service of the Colony for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation No. 2 as if there had been no qualifying period.

(4) The provisions of this regulation shall apply only to an officer who is serving in an office in Grade I. at the time such office is abolished.

12. (1) Where an officer employed in the public service of the Colony, in a pensionable office, or in a non-pensionable office and not being a depositor under the Provident Fund Ordinance, has been permanently injured—

Officers retiring on account of injuries.

(a) in the actual discharge of his duty, and

(b) without his own default, and

(c) by some injury specifically attributable to the nature of his duty, and his retirement is thereby necessitated or materially accelerated, he may be granted in respect of such injury in addition to the pension, if any, granted to him under these regulations, an annual allowance in proportion to the extent of his injury as follows:—

When his capacity to contribute to his support is—

slightly impaired	...	...	...	...	...	...	60/720ths.
impaired	...	...	...	...	...	...	120/720ths.
materially impaired	...	...	...	...	...	...	180/720ths.
totally destroyed	...	...	...	...	...	...	240/720ths.

Provided that no such allowance shall, together with the pension, exceed 600/720ths of his pensionable emoluments at the date of the injury.

(2) The allowance shall be less than the above-mentioned maximum by such amount as the Governor in Council shall think reasonable in the following cases:—

(a) where the injured officer has continued to serve for not less than one year after the injury in respect of which he retires;

(b) where the injured officer is fifty years of age or upwards at the date of the injury; or,

(c) where the injury is not the sole cause of retirement, for instance if the retirement is caused partly by age or infirmity not due to the injury.

(3) When the officer so injured is a pensionable officer but has less than ten years' service, and he is not eligible for an ordinary pension, he may be granted in lieu of a gratuity an annual allowance of so many 720ths as the number of months he has actually served, in addition to the number of 720ths that may be awarded to him under paragraphs (1) and (2), of this regulation: Provided that where the officer has served in an office in Grade II. only three-fourths of the months served in that grade shall be taken into account.

(4) An officer so injured who is not qualified for either a pension under regulation No. 2 or a gratuity under regulation No. 3 may nevertheless be granted an annual allowance of the same amount as the additional allowance which he might have been granted if he had been so qualified.

(5) No allowance for injury shall be granted under this regulation to any person who, in respect of the same injury, has been awarded compensation under any law relating to Workmen's Compensation, and in any such case if an allowance has been previously granted it shall be discontinued:

Provided that this paragraph shall not apply to persons in the service of the Colony on the 1st of December, 1938.

PART II.

Special regulations for transferred Officers.

Application of certain sections of the Ordinance and of regulations in Part I.

13. Subject to the succeeding regulations, the provisions of sections 15 and 16 of the Ordinance, shall apply to the case of an officer who has been transferred to or from the service of the Colony from or to other public service, and the provisions of subsection (2) of section 9 of the Ordinance and regulations Nos. 4 to 10 inclusive shall apply to the case of an officer so transferred as if his whole service had been in the Colony:

Provided that in the application of section 15 of the Ordinance to cases falling under the limitation of section 14 of the Ordinance, the words "such pension" in section 15 shall be taken to mean the amount of pension which he might have drawn from the funds of the Colony if he had not elected for a gratuity and reduced pension.

Pensions for service wholly within the group.

14. (1) Where the other public service of an officer has been wholly under one or more of the Scheduled Governments, and his aggregate service would have qualified him had he 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 a pension from the funds of the Colony 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 amount of his pensionable emoluments during his service in the Colony shall bear to the aggregate amount 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 in the Colony—

(a) the final pensionable emoluments shall be taken to be those of his last period of service in the group;

(b) no regard shall be had to subsection (4) of section 11 of the Ordinance, or to regulations Nos. 11 and 12;

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

(d) no period of other public service under any Scheduled Government which does not grant a pension or gratuity to the officer shall be taken into account:

Provided that where an officer entered the public service prior to the 1st of January, 1930, his pension in respect of his service in the Colony may be calculated as though any Scheduled Government under which he has served had not been included in the First Schedule to the Ordinance, if this should be to his advantage.

(3) The aggregate amount of his pensionable emoluments shall be taken as the total amount of salary which the officer would have drawn and

the total amount of the other pensionable emoluments which he would have enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group subsequent to the attainment of the age of twenty years:

Provided that in calculating the aggregate amount of his pensionable emoluments no account shall be taken of any service under any Scheduled Government which does not grant the officer a pension or gratuity:

Provided further that where under subsection (2) of section 9 of the Ordinance 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 emoluments during that service shall be taken into account for the calculation aforesaid.

15. Where a part only of the other public service of an officer has been under one or more of the Scheduled Governments, the provisions of regulation No. 14 shall apply; but in calculating the amount of pension regard shall be had only to service in the group.

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

16. Where the other public service of an officer has not been wholly under one or more of the Scheduled Governments and his aggregate service would have rendered him eligible, had it been wholly in the Colony, for a pension under these regulations, he may, on his ultimate 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 lieu of the pension which might be granted under regulation No. 15, a pension from the funds of the Colony of an amount equal to the arithmetic mean between the pension which he could have been granted from the funds of the Colony if his service had been wholly under one or more of the Scheduled Governments and the pension which he would receive from the funds of the Colony in the absence of this regulation:

Service with non-scheduled Governments.

Provided that the pension which may be granted under this regulation shall not exceed the pension which the officer would receive from the funds of the Colony in the absence of this regulation by more than one-third of the latter.

17. Where an officer who has been transferred from other public service and whose aggregate service would have rendered him eligible, had it been wholly in the Colony, for a pension under these regulations, is compulsorily retired from the public service in circumstances mentioned in subsection (4) of section 11 of the Ordinance he may, if at the time he is in the service of the Colony, be granted from the funds of the Colony, in addition to the pension granted to him under regulation No. 14, 15 or 16, as the case may be, an addition to pension equal to the addition to pension which might have been granted to him if his total pensionable service had been in the Colony.

Additional pension in respect of abolition or re-organization of office.

18. Where an officer who has been transferred from other public service and whose aggregate service would have rendered him eligible, had it been wholly in the Colony, for a pension under these regulations, is compulsorily retired from the public service in circumstances mentioned in regulation No. 12, he may, if at the time he is in the service of the Colony, be granted from the funds of the Colony the addition to pension allowed by that regulation as well as the pension granted under regulation No. 14, 15 or 16, as the case may be.

Additional pension to officer retiring on account of injury.

Gratuities where length of service does not qualify for pension.

19. (1) Where an officer who has been transferred to or from the service of the Colony from or to other public service 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 completed in the aggregate the minimum period of service qualifying him for a pension, he may be granted from the funds of the Colony a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him if his case had fallen under regulation No. 14, 15 or 16, as the case may be.

In cases of abolition or re-organization of office.

(2) Where such an officer is compulsorily retired from the public service, in circumstances mentioned in subsection (4) of section 11 of the Ordinance, he may, if at the time he is in the service of the Colony, be granted, in lieu of a gratuity as contemplated in the preceding paragraph (1) a pension calculated in accordance with regulation No. 14, 15 or 16, as the case may be, as if there had been no qualifying period prescribed in those regulations or in regulation No. 2.

In cases of injury.

(3) Where such an officer is compulsorily retired from the public service in circumstances mentioned in regulation No. 12, he may, if at the time he is in the service of the Colony, be treated as if he had no other public service, but he shall not be granted in addition the gratuity for which he is eligible under paragraph (1) of this regulation.

Officers transferred to other public service and retiring after less than twelve months' employment in last service.

20. Where an officer who is transferred to other public service is not granted a pension or gratuity in respect of his employment in the service in which he is last employed, solely by reason of the fact that he has not completed twelve months' service therein, he shall not, on that account, be disqualified from receiving a pension or gratuity from the funds of the Colony, if otherwise eligible therefor.

Gratuity on retirement of transferred female officers on account of marriage.

21. A female officer who has been transferred to or from the service of this Colony and who retires for the reason that she has married, or is about to marry, and is in consequence eligible for a gratuity under regulation No. 4 or corresponding provisions of the law or regulations of other public service in which she is last employed, may be granted a gratuity which bears to the gratuity for which she would be eligible if her public service had been wholly in the service in which she is last employed the proportion which her service in the Colony bears to her total public service:

Provided that, for the purpose of computing such an officer's total public service under this paragraph, no regard shall be had to any service under a Government which does not grant a gratuity to her in consequence of her retirement.

THIRD SCHEDULE.

(Section 25.)

Enactments repealed by Ordinance No. 16 of 1934.

- Cap. 83—1925 Revised Laws.—The Pensions Ordinance.
 No. 1—1926.—The Pensions (Amendment) Ordinance, 1926.
 No. 7—1927.—The Pensions (Amendment) Ordinance, 1927.
 No. 23—1928.—The Pensions (Amendment) Ordinance, 1928.
 No. 3—1929.—The Pensions (Amendment) Ordinance, 1929.
 No. 28—1930.—The Pensions (Amendment) Ordinance, 1930.

The Pensions Regulations, 1932, and the amendments and additions thereto by regulations made by the Governor in Council of the 7th of April, 1932, 29th of September, 1932, 22nd of December, 1932, and 14th of September, 1933.

FOURTH SCHEDULE.

(Section 27.)

Extract from the repealed Pensions Regulations, 1934.

11. (1) In computing the pension of an officer who, on retirement from the service, holds one of the offices mentioned in paragraph (2) hereunder, the additions therein mentioned may be made to his period of service: Professional qualifications.

Provided that—

(a) no addition shall be made which, together with the number of years of actual service shall amount to more than thirty-five years; and

(b) no addition of years shall be made in excess of the number of years by which the officer's age at the date of his entering the pensionable service of the Crown exceeded twenty years;

(c) the full addition shall not be made unless he has served ten years in the office from which he retires, or in an office of the same class; if, however, he has served less than ten years in such an office or in an office of the same class, an addition may be made which shall have the like proportion to the full addition which the number of months he has served in such capacity bears to ten years.

(2) The number of years to be added to the period of service, under the preceding paragraph (1), for the purpose of computing pensions is as follows:—

For the First Class	...	...	...	...	...	Ten years.
For the Second Class	...	...	...	...	...	Five years.
For the Third Class	...	...	...	...	...	Three years.

The First Class comprises :

Judges of the Supreme Court.

The Second Class comprises :

Attorney General.

Surgeon General (or Director of Medical Services).

Director of Public Works (or Director of Works and Transport), when a member of the Institute of Civil Engineers.

The Third Class comprises :

Solicitor General.

Assistant Law Officer.

Medical Officers.

Magistrates, when Barristers-at-Law or Advocates of the Scotch Bar.

Director of Public Works (or Director of Works and Transport), not a member of the Institute of Civil Engineers.

Registrar of the Supreme Court.

For the purpose of computing the officer's pension each year added shall be equivalent to 12/720ths, and each month to 1/720ths.

Private
practice.

12. If a pension is granted to any officer who, during any portion of the ten years preceding his retirement, has been allowed the private practice of his profession, the full addition for professional or peculiar qualifications referred to in the preceding regulations shall not be made; he may nevertheless be granted such proportion of the full addition as the Governor in Council with the approval of the Secretary of State may determine.

Additional
pension in
respect of
professional
qualifications.

17. Where an officer has been transferred to or from the service of the Colony from or to other public service and held at the date of his transfer or retirement, as the case may be, from the service of the Colony, one of the offices mentioned in regulation No. 11, he may on his ultimate 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 addition to the pension granted to him under regulation No. 14, 15 or 16, as the case may be, an addition to pension which shall bear to the addition to pension which he might have received under regulation No. 11 if he had had no other public service, the same proportion which the length of his pensionable service in the Colony bears to the length of his total pensionable service in the public service:

Provided that—

(a) he shall not be disqualified from receiving an addition to pension by reason of the fact that his service in the Colony would not by itself have rendered him eligible for a pension; and

(b) in determining the addition to pension which he might have received if he had had no other public service, regard shall be had to his age at the date of his first entering the public service, but regard shall not be had, save for the purposes of the following proviso, to proviso (c) to regulation No. 11 (1);

(c) the addition to pension actually granted under this regulation shall not be greater than that which might have been granted under regulation No. 11 if he had had no other public service.