

## GOVERNMENT NOTIFICATION.—No. 17.

The following Minute by His Excellency the Governor is substituted for that published under Government Notification No. 452 of 25th October, 1895.

By Command,

J. H. STEWART LOCKHART,  
*Colonial Secretary.*

Colonial Secretary's Office, Hongkong, 8th January, 1902.

## MINUTE

AS TO

## PENSION RULES

*framed under Ordinance No. 10 of 1862 by the Governor,*

*Dated the 1st January, 1902.*

## No. 1.

1. Subject to the provisions of this Minute, every Public Officer borne on the Fixed Establishment of the Colony (other than a Judge of the Supreme Court, or members of the Police Force who are entitled to retiring allowances under Ordinance 14 of 1887) who has served ten years or upwards, and whose annual salary exceeds \$240, may be awarded, on his retirement, a pension at the rate of fifteen-sixtieths of such salary, with an addition of one-sixtieth in respect of each complete year of such service in excess of ten, until the maximum of forty-sixtieths is reached.

Persons to whom,  
and at what rates  
pensions to be  
granted.

2. No officer whose annual salary does not exceed \$240 may be awarded a pension, but a compassionate allowance may be granted in special cases of long and faithful service, provided that such compassionate allowance shall not exceed two-thirds of the rate of pension grantable to an officer under paragraph 1.

3. "Long Service" for the purposes of this Minute shall be understood to mean twenty years for Europeans and twenty-five years for Non-Europeans.

4. No officer may be awarded a pension in respect of any service under the age of sixteen years, nor in respect of his service in any of the following capacities, viz., Private Secretary or Aide-de-Camp to the Governor; Clerk to a Judge of the Supreme Court, unless in the permanent Civil Service; Apprentice in a public department; Normal Student or Pupil Teacher.

5. Every officer otherwise qualified for a pension who is constrained from infirmity of mind or body to leave the public service before the completion of ten years' service may be awarded a gratuity at the rate of half a month's salary for each complete six months of service.

6. An officer who has been transferred to or from the service of the Crown in this Colony from or to the service of the Crown elsewhere will not be awarded a pension or gratuity under this clause, but his case will be dealt with under clause 17 of this Minute, provided always that the case of any such officer who, having been so transferred to the service of the Colony, has served in the Colony for a period of ten years and upwards immediately prior to his ultimate retirement from the service of the Crown, may be dealt with under this clause instead of under clause 17.

7. Any officer permanently attached to the local Audit Department, notwithstanding the fact that his salary is paid out of an open vote, may be awarded, on his ultimate retirement, a pension or gratuity subject to the conditions of this Minute, as though he were on the Fixed Establishment of the Colony.

## No. 2.

Pensions of Judges.

1. Subject as aforesaid, every Judge of the Supreme Court who has served as a Judge for seven years or upwards may on his retirement be awarded a pension at the rate of fifteen-sixtieths of his salary, with an addition of two-sixtieths in respect of each year of such service in excess of seven, until twenty-nine-sixtieths is reached; and with the further addition of one-sixtieth in respect of each year of such service in excess of fourteen, until the maximum of forty-sixtieths is reached.

2. A Judge of the Supreme Court who, before being made a Judge, has served the Government of the Colony in another capacity and who has not less than ten years' service in the Colony in all (including his service as a Judge), may claim either a pension at the rate of one-thirtieth of his salary as such Judge for each year of his service as such Judge together with one-sixtieth of the salary received by him previous to his becoming a Judge for each year of his service in that other capacity with an addition to such service which shall bear the same proportion to five years or to five years plus the number of years, if any, grantable under clause 3, paragraph 2, as such service bears to his total service in the Colony or a pension at ordinary rates in accordance with clauses 1 and 3 of these Regulations; provided that in no case shall the pension under the former alternative exceed the maximum pension which could be claimed under clause 2 (1), viz., forty-sixtieths of his salary as Judge.

## No. 3.

Officers enjoying private practice.

1. (a) Except in cases where a right to pension has been previously acknowledged or sanctioned by the Secretary of State or the Governor in Council, officers whose whole time is not given to the public service and professional officers who are allowed the private practice of their professions, may not be awarded pensions under these Regulations. If a pension is granted in any such case the addition specified in paragraph 2 of this clause for professional or peculiar qualifications shall not as a general rule be made, nor as a general rule shall any fees paid out of the Treasury be included in salary in computing pension.

(b) Save as in this clause excepted, such officers as in this clause are referred to may not in the case of abolition of office be awarded the pension provided for the case of abolition of office, but every such officer may receive a pension at such reduced rate as the Secretary of State may see fit in each case to prescribe.

Professional qualifications.

2. In computing the pension of an officer who on first entering the service was appointed to an office mentioned in the schedule hereto and retires therefrom or from some other office requiring like qualifications, the additions in the said schedule mentioned may be made to his period of service: Provided that no such addition shall be made in the case of any officer who has been transferred to the service of the Colony from Her Majesty's Naval or Military service, and that no addition shall be made which together with the number of years of actual service shall amount to more than thirty-five years.

## No. 4.

Public Officer appointed to be Governor.

1. Every Public Officer borne on the Fixed Establishment of the Colony who is appointed either directly or after intermediate service under the Crown outside the Colony to be Governor of the Colony shall on his retirement be entitled to the same pension as if he had continued to hold the office which he held in this Colony previous to such appointment and as if his retirement were occasioned by ill-health.

2. If there is offered to any such ex-Governor being under the age of fifty-five years any office under the Crown either in the Colony or elsewhere which, regard being had as well to the state of his health as to his previous services, such ex-Governor may be properly called upon to accept, the Secretary of State for the Colonies may suspend either wholly or in part as he in his absolute discretion may think fit the pension of such ex-Governor during his tenure of such office in case of acceptance or in case of non-acceptance until he attains the age of fifty-five years.

## No. 5.

Pensions not of right.

No Judge or other officer shall have an absolute right to compensation for past services, or to any pension or other allowance under this Minute, nor shall anything herein contained limit the right of the Crown to dismiss any Judge or other officer without compensation.

## No. 6.

No pension or allowance shall be granted to any Public Officer who has not attained the age of fifty-five years (other than a Governor) without a certificate from the Head of his Department and from two qualified medical practitioners 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, nor in any case without a certificate from the Head of his Department that he has discharged the duties of his office with such diligence and fidelity as to justify the grant to him of a pension or allowance. When the officer applying for a pension or allowance is himself the Head of a Department, or is a Judge, the certificates required by this clause from the Head of a Department must be given by the Governor.

Certificates  
required as to  
conduct, &c.

## No. 7.

It shall be lawful for the Secretary of State for the Colonies, in cases of peculiar or extraordinary merit, in which special services have been rendered altogether in excess and beyond the usual scope of those which the officer is paid to perform, to sanction the grant by the Governor in Council of pensions or retiring allowances at higher rates and on more favourable conditions than those which may for the time being be authorised by this Minute.

Cases of extraor-  
dinary merit.

## No. 8.

In ordinary cases, the maximum pension or retiring allowance grantable to an officer under this Minute, or to an officer entitled to pension or retiring allowance also in respect of service not under this Government from all sources combined shall not exceed two-thirds of the highest salary drawn by such officer at any time in the course of his service. Such ordinary pensions need not be reported to the Secretary of State except—

Ordinary Cases.

- (a) in the case of pensions payable in Great Britain, when the amount awarded should be simply reported to the Colonial Office, and at the same time instructions given to the Crown Agents to issue the pensions; and
- (b) in the case of officers who have served in more than one Colony, in which case it is desirable that the usual pension paper of particulars should be sent to England inasmuch as the amount awarded may affect the amount payable by other Colonial Governments.

In no case shall any pension granted under this Rule exceed £1,000 per annum.

## No. 9.

Pensions granted under the Police Pension Regulations need not be reported to the Secretary of State except in the cases indicated in (a) and (b) of Rule 8.

Police Pensions.

## No. 10.

The Colonial Treasurer should furnish the Comptroller and Auditor General with the usual paper of particulars of every pension, whether granted under the ordinary pension minute or under the Police Pension Regulations, as soon as possible after the pension has been awarded, in support of the first payment of such pension.

Colonial Treasurer  
to furnish paper of  
particulars.

## No. 11.

1. Pensions, gratuities, and allowances computed at the rates before-mentioned will only be granted in cases of decidedly faithful and meritorious service.
2. Where the fidelity and diligence of the officer fall short of the first degree of merit, the computation may be made at lower rates.
3. Where the officer has been guilty of gross negligence, irregularity, or misconduct, no grant will be made.

Good conduct  
required.

## No. 12.

1. The service in respect of which pensions, retiring allowances or gratuities 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 voluntary resignation. Also 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 with the previous sanction of the Governor in Council been spent in some other employment under the Crown.

What service  
entitles for  
pensions.

2. No service other than service on the Fixed Establishment on full or half pay will be taken into account in computing pensions or retiring allowances, except that, where the service on the Fixed Establishment has been immediately preceded by an unbroken period of service on the temporary establishment, or of service paid for out of an open vote or of both such services, such period will be taken into account. Provided always that of the period of service paid for out of an open vote not more than two-thirds shall be counted for the purpose of this clause. Leave of absence on half salary will only be counted at the rate of one month for every two months of such leave, provided that vacation leave, in cases where full salary is not available, shall be counted as though it were leave with full salary. But leave taken before the end of 1886, inclusive of vacation leave taken (after June, 1876,) in conjunction with half pay leave will, to the extent of one-sixth of an officer's resident service, be counted as full service for pension.

3. Service will be deemed to commence for pension purposes, in the case of Cadets as well as of other officers, at the date on which they commence to draw salary, provided that if a Cadet fails to pass the final examination in the native language within the prescribed period, the period by which the date of his passing his final examination is overdue will be deducted from his term of service when his claims to pension are considered.

4. Notwithstanding anything hereinbefore contained a period not exceeding one year during which an officer is absent on leave without salary such leave being granted on grounds of public policy may be counted for the purpose of this clause as service on full pay.

### No. 13.

How salary to be  
computed for  
pension purposes.

1. For the purpose of computing retiring allowances, the salary of the permanent appointment held by the officer at the date of retirement will be taken if he has held such office or an office with the same salary for a period of three years immediately preceding such date; otherwise the average amount of the salary of the permanent appointments held by the officer during the three years immediately preceding his retirement will be taken.

2. For the purpose of this clause Salary includes personal allowance, allowance for house rent, estimated value of free quarters, rations, and any other unquestionable remuneration for personal service and any fees paid out of the Treasury by way of salary, but so 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 whole of the other emoluments of the office.

### No. 14.

Abolition of office.

1. In case of the abolition of the office of an officer who is borne on the Fixed Establishment of the Colony, a temporary pension may be granted to the officer whose office is abolished, on the condition that he shall hold himself ready to be recalled to service, and with the understanding that he will be re-employed as opportunity offers in preference to new applicants for office.

2. If the officer whose office is abolished is not qualified for other employment, or if there is no reason in the opinion of the Governor to expect that he can be shortly re-employed, a pension may be granted to him free from the conditions as to re-employment mentioned in this clause.

3. In the case of an officer whose office is abolished his pension shall be at the rate of the number of sixtieths of his salary exceeding the number of the completed years of his service by the numbers following (that is to say):—

- |   |    |
|---|----|
| (a) In the case of an officer who has served twenty years, .....  | 10 |
| (b) In the case of an officer who has served less than twenty years<br>but not less than fifteen years, ..... | 7  |
| (c) In the case of an officer who has served less than fifteen years<br>but not less than ten years, .....    | 5  |
| (d) In the case of an officer who has served less than ten years<br>but not less than five years, .....       | 3  |
| (e) In the case of an officer who has served less than five years, ...  | 1  |

4. No addition shall be made under this clause to an officer's period of service so as to entitle him to a higher pension than he would have been entitled to had he been retained in the service until he attained the age sixty years.

## No. 15.

1. Where a public officer has been permanently injured—

- (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, an annual allowance may be granted to him in addition to any pension which he may be awarded not exceeding the undermentioned portion of his salary and emoluments at the date of the injury, viz. :—

When his capacity to contribute to his support is—

Slightly impaired, .....	Five-sixtieths.
Impaired, .....	Ten-sixtieths.
Materially impaired, .....	Fifteen-sixtieths.
Totally destroyed, .....	Twenty-sixtieths.

Provided that no such allowance shall together with the pension exceed fifty-sixtieths of his salary and emoluments at the date of the injury.

2. Such 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 man has continued to serve for not less than one year after the injury in respect of which he retires ;  
 (b) Where the injured man is fifty (50) years of age or upwards at the date of the injury ; or  
 (c) Where the injury is not the sole cause of retirement, *i.e.*, the retirement is caused partly by age or infirmity.

3. When the public officer so injured has less than ten years' service and he is not entitled to an ordinary pension he may receive in lieu of a gratuity an annual allowance of so many sixtieths as the years he has actually served in addition to the number of sixtieths that may be awarded to him under paragraphs (1) and (2) of this clause.

## No. 16.

If any pensioner under this Minute is appointed to an office under the Crown either in the Colony or elsewhere, then, during his tenure of such office, so much only, if any, of his pension or compensation allowance shall be paid to him as with the emoluments of such office makes up an amount equal to the emoluments of the office which he held at the date of the grant of his pension or compensation allowance.

In calculating such amount in connection with Colonies having a different currency the standard dollar of this Colony shall be taken as equivalent to three shillings sterling.

## No. 17.

1. Subject to the provisions of this Minute, every public officer (other than a Judge of the Supreme Court) who, having been borne on the Fixed Establishment of the Colony for a period of at least twelve calendar months, leaves the service of the Colony for other service under the Crown and who in respect of his aggregate service in the Colony and elsewhere might have been awarded, had it been wholly in the Colony, a pension or retiring allowance under this Minute, may, on his ultimate retirement from the service of the Crown, be awarded a pension at the rate of one seven-hundred-and-twentieth of the amount of his annual salary at the date of his so leaving the service of the Colony as aforesaid for each calendar month of his service in the Colony, and in calculating such service in the Colony an addition may be made thereto which shall bear a like portion to five years as his service in the Colony bears to the whole period of his employment in tropical climates; provided that no such addition shall be made unless such officer has been employed for ten years in all in tropical climates; and a further addition proportionate to his total public service may be in respect of the grant, if any, allowable under clause 3, paragraph 2; provided also that such additions shall in no case be greater than would make his total service under the Crown forty years.

2. Subject as aforesaid, every public officer (other than a Judge of the Supreme Court) who, having been in the service of the Crown elsewhere than in the Colony, is transferred from such service to the Fixed Establishment of the Colony, and who in respect of his aggregate service in the Colony and elsewhere might have been awarded, had it been wholly in the Colony, a pension or retiring allowance under this Minute,

Additional allowance grantable in cases of retirement in consequence of injuries received.

Pension to abate on pensioner's obtaining other public employment.

Where the officer has served the Crown elsewhere than in the Colony.

may, on his retirement from the service of the Colony, if he at the same time retires from the service of the Crown, and if he had served for a period of at least twelve months in the Colony, be awarded a pension at the rate of one seven-hundred-and-twentieth of the amount of his annual salary at the date of such retirement for each calendar month of his service in the Colony, and in every such case there may be added, at the discretion of the Governor in Council, in computing the period of the retiring officer's service in the Colony, a number of months not exceeding—

- (a) One-third of the aggregate of his service elsewhere than in the Colony; nor
- (b) Two-thirds of his service in the Colony; nor
- (c) In any case eighty-four months.

3. Subject as aforesaid, every Judge of the Supreme Court who is transferred to or from the service of the Colony from or to other service under the Crown and is not entitled to a pension under clause 2 of these Regulations shall, if his aggregate service under the Crown in this Colony and elsewhere would have entitled him had it been wholly in this Colony to a pension under that clause, be entitled on his ultimate retirement to a pension at the rate of two seven-hundred-and-twentieths of the amount of his annual salary at the date of his retirement (if he ultimately retires as a Judge of the Supreme Court of this Colony) or at the date of his being so transferred from the service of this Colony for each month of his service as a Judge in this Colony together with a pension for his service in any other capacity in this Colony calculated as under paragraphs 1 or 2 of this clause.

Service in Straits Settlements and in Malay States to be continuous for calculation of pension.

4. Subject as aforesaid, every officer (other than a Judge of the Supreme Court), who is transferred to or from the service of the Colony from or to the service of the Straits Settlements or of a Ruler of any Native State in the Malay Peninsula which is or was while such officer served there under the protection of the British Government and administered by an officer appointed by the Governor of the Straits Settlements and whose aggregate service in the Colony and in the Straits Settlements or such Native State or States would have entitled him had it been wholly in the Colony to a pension under this minute, shall on his ultimate retirement from service if he has served for a period of at least twelve months in the Colony be entitled to a pension of such an amount as shall bear the same proportion to the amount of pension to which he would have been entitled had his service been wholly in the Colony as the aggregate amount of the salary drawn by him from the Colonial Treasury during his service in the Colony shall bear to the total sum made up of such aggregate amount as last aforesaid and the aggregate amount of the salary drawn by him from the Treasury or Treasuries of the Straits Settlements or any such Native State or States during his service therein; Provided always that such transfer was made with the approval of the Governor in Council and that the salary so drawn by him whilst in the service of any such Native Ruler was fixed with the approval of the Governor of the Straits Settlements.

#### No. 18.

Allowance to officers who have served fifteen years on the temporary establishment.

In the case of an officer who is not qualified for a pension or retiring allowance under this Minute but has continuously served on the temporary establishment of the Colony for fifteen years or upwards, and is at the date of his retirement in receipt of a salary exceeding \$240 per annum, a monthly allowance may be granted to such officer not exceeding three-fourths of the pension which might have been awarded to him had he been employed on the Fixed Establishment; provided that when an officer has been transferred from the Fixed to the Temporary Establishment he shall be entitled, either (a) to count his service on the temporary establishment as though it were service on the Fixed Establishment, at the salary which he received immediately prior to such transfer, or (b) to count his service on the Fixed Establishment as though it were service on the temporary establishment, and to take the benefit of this clause accordingly. And in the case of an officer on the temporary establishment whose salary does not exceed \$240 per annum, or of an officer paid out of an open vote who is not on either the Fixed or Temporary Establishment of the Colony, a compassionate allowance may be granted as under clause 1, paragraph 2, but such compassionate allowance shall not exceed one half of the rate of pension grantable under clause 1, paragraph 1.

#### No. 19.

Pension may be capitalised.

In lieu of any pension or compassionate allowance granted under this Minute there may be paid to an officer, with the approval of the Secretary of State, a capital sum equal to five years' payments of such pension or compassionate allowance, but no such capital sum shall ordinarily be paid in the case of retirement on the ground of ill-health.

## No. 20.

Nothing contained in this Minute shall interfere with the pension rights of persons <sup>Existing claims.</sup> who entered the service of the Colony before the date of the Minute, or shall restrict or diminish any superannuation allowance, compensation, or gratuity which, if this Minute had not been issued, might have been granted to any such person, but except as aforesaid, the provisions of the Minute shall apply as well to persons who have already entered the Public Service as to those who may hereafter enter the Public Service of Hongkong.

## No. 21.

The Governor in Council may (subject as regards officers appointed under <sup>Compulsory retirement at sixty.</sup> instructions received from or through the Secretary of State for the Colonies to the approval of such Secretary of State) require any Judge or other Public Officer to retire from the Public Service of the Colony at any time after he attains the age of sixty years.

## No. 22.

No pension granted under this Minute shall be assignable or transferable or liable to <sup>Pensions not to be assignable.</sup> be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever.

## No. 23.

If any person to whom a pension has been granted under this Minute is convicted <sup>Pension to cease on bankruptcy or conviction.</sup> before any Court in Her Majesty's dominions of any crime or offence for which he is sentenced to death or penal servitude or transportation or any term of imprisonment with hard labour or exceeding twelve months, and does not within two months after such conviction receive Her Majesty's free pardon, or if any such person becomes a bankrupt, then in every such case such pension shall forthwith cease: provided always that in any case where a pension ceases by reason of the bankruptcy of the pensioner it shall be lawful for the Secretary of State for the Colonies or if such pensioner is resident in the Colony then for the Governor in Council from time to time during the remainder of such pensioner's life or during such shorter period or periods either continuous or discontinuous as such Secretary or State or Governor in Council shall think fit to pay all or any part of the moneys to which such pensioner would have been entitled by way of pension had he not become a bankrupt or to apply the same for the maintenance and personal support or benefit of all or any exclusive of the others of the following persons, namely, such pensioner and any wife, child or children of his in such proportions and manner as such Secretary of State or Governor in Council from time to time thinks proper.

## THE SCHEDULE,

The number of years to be added to the period of service in cases coming under clause 3, paragraph 2, for the purpose of computing pensions is as follows:—

For the 1st Class, 5 years,

„ 2nd „ 3 „

„ 3rd „ 2 „

*1st Class,—*

Attorney General.  
Director of Public Works.  
Colonial Surgeon.

*2nd Class,—*

Harbour Master.  
Registrar, Supreme Court.  
Superintendent, Civil Hospital.  
Assistant Surgeons, Medical Department.

*3rd Class,—*

Executive Engineers.  
Assistant Engineers.  
Marine Surveyors.  
Assistant Harbour Master.  
Land Surveyors.