

LAWS OF DOMINICA

PENSIONS ACT

CHAPTER 23:80

Act

9 of 1944

Amended by

10 of 1946

10 of 1949

12 of 1950

19 of 1951

2 of 1952

18 of 1953

10 of 1956

9 of 1957

14 of 1960

3 of 1963

12 of 1964

17/1964

22 of 1965

10 of 1966

2/1966

29/1967

10/1968

6 of 1970

9 of 1970

26/1970

38 of 1975*

33 of 1978

24 of 1980

5 of 1990

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*See Note on page 2.

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**Note
on
Application of Pensions Act**

The Social Security Act (Chapter 31:01) provides as follows:

“57.(1) The Pensions Act and the Police Pensions Act shall cease to have effect in respect of persons whose employment or appointment commenced on or after the appointed day.

(2) Persons who would have come within the provisions of the enactment set out in subsection (1) above, appointed before the appointed day whether established or non-established shall continue to be entitled to the pensions to which they were entitled prior to the appointed day, in addition to any rights to benefits under this Act.”.

The “appointed day” is 1st February 1976 – see Notice entitled “Social Security Act 1975 Declaration of Appointed Day” in *Gazette* dated January 29, 1976 (page 27) and the Social Security (Validation) Act 1986 (No. 29 of 1986).

CHAPTER 23:80

PENSIONS ACT

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 23:80

PENSIONS ACT

1961 Ed.
Cap. 235.
9 of 1944.

AN ACT for regulating pensions, gratuities and other allowances to be granted in respect of offices held in the public service.

Commencement.

[25th September 1944]

Short title.

1. This Act may be cited as the –

PENSIONS ACT.

Interpretation.

[3 of 1963
12 of 1964
10 of 1966
6 of 1970].

2. (1) In this Act

“the appointed day” means the date of the commencement of this Act;

“pensionable office” means –

(a) in respect of service under the Government of the State an office which, by virtue of provision for the time being in force in an Order made by the President, is declared to be a pensionable office; but where by virtue of any amendment or revocation of such an Order any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office;

(b) in respect of other public service an office which is for the time being a pensionable office under the law or regulations in force in such service;

“non-pensionable office” means an office which is not a pensionable office;

“pensionable emoluments” –

(a) in respect of service in the State includes salary, inducement allowance, personal allowance and house allowance, but does not include duty allowance, entertainment allowance or any other emoluments whatever;

(b) 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 salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office;

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“house allowance” means the estimated value of free quarters as defined in regulations under this Act;

“public service” means –

- (a) service in a civil capacity under the Government of Dominica or any other country or territory in the Commonwealth;
- (b) service under the East Africa High Commission, the East African Railways and Harbours Administration, the East African Posts and Telecommunications Administration or East African Common Services Organisation;
- (c) service which is pensionable –
 - (i) under the Oversea Superannuation Scheme;
 - (ii) under any Acts relating to the Superannuation of teachers in the United Kingdom;
 - (iii) under a local authority in the United Kingdom; or
 - (iv) under the National Health Service of the United Kingdom;
- (d) any other service that the President has determined to be public service for the purposes of this Act;
- (e) except for the purposes of computation of a pension or gratuity and of section 9 of this Act, service in respect of which a pension may be granted under the Governor’s Pensions Act 1957;
- (f) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the Eastern Africa Court of Appeal Order in Council 1961;

(g) service in the service of the Interim Commissioner for the West Indies;

(h) service under the Roseau City Council and Portsmouth Town Council;

(i) service under Cable and Wireless (West Indies) Ltd.

“other public service” means public service not under the Government of the State;

“inducement allowance” means the inducement allowance referred to in clause 3(a) of the agreement set out in the Schedule to the Overseas Service Ordinance, 1961.

32 of 1961.

(2) For the avoidance of doubts it is hereby declared that, where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of the appointment otherwise require, the last-mentioned office is, for the purposes of this Act, an office in which he has been confirmed.

Pension
Regulations.
[12 of 1990].
Ch. 31:01.

*3. (1) (a) Subject to section 57 of the Social Security Act pensions, gratuities and other allowances may be granted by the President in accordance with the Pensions Regulations to officers who have been in the service of the State.

(b) The said Regulations may from time to time be amended or revoked by Regulations made by the President, and all Regulations so made shall be subject to negative resolution of the House of Assembly and published in the *Gazette*.

(c) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of an officer's retirement.

(2) The Pensions Regulations formerly contained in a Schedule to this Act shall be deemed to have been made and to have come into operation under this section; and a reference to this Act whether contained in this Act or in any other written law shall be construed as including a reference to those Regulations.

Retrospective
power.

(3) Whenever the President is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that

* See Note on Application of Pensions Act on page 2.

purpose; but no such regulation shall have retrospective effect unless it has received the prior approval of the House of Assembly signified by resolution.

4. There shall be charged on the revenues of the State all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Act.

Pensions, etc., to be charged on revenues of the State.

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance.

Pensions, etc., not of right.
[12 of 1990].

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

6. No pension, gratuity or other allowance shall be granted under this Act to any officer except on his retirement from the public service in one of the following cases:

Circumstances in which pensions may be granted.
[22 of 1965
10 of 1966
9 of 1970
38 of 1975
24 of 1980
12 of 1990].

(a) on or after attaining the age of fifty years or, in special cases, with approval of the Cabinet, forty-five years; but in any event an officer shall not commence to receive payments by way of pension in respect of service under the Government before he attains the age of fifty years;

(b) in the case of transfer to other public service, on or after attaining the age at 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 if his service in such other public service is superannuated under the Federated Superannuation System for Universities or a similar insurance scheme, he has retired on one of the grounds mentioned in paragraphs (a), (c), (d), (e) and (f);

(c) on the abolition of his office;

(d) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;

(e) on medical evidence that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

- (f) in the case of termination of employment in the public interest as provided in this Act;
- (g) on retirement in circumstances, not mentioned in the preceding paragraphs of this section, rendering him eligible for a pension under the Pensions (Governors of Dominions, etc.) Acts 1911 to 1936, or any Act amending or replacing those Acts; but a gratuity may be granted to a female officer, in accordance with this Act, who retires for the reason that she has married or is about to marry, notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance;
- (h) an officer holding a pensionable office and not otherwise qualified for a pension, gratuity or other allowance under this Act may on his resignation from public service under the Government of Dominica after having served in that public service in a pensionable office for a period not less than ten years, be granted a gratuity in keeping with regulation 26 of the Pensions Regulations.

Terminating
employment in
public service.
[22 of 1965].

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, the termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him under this Act, the President may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper; but the amount of the pension, gratuity or other allowance shall not –

- (a) exceed in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of section 6;
- (b) include any additional pension which may be granted under regulation 4 (2) or (3), or any additional pension which may be granted under regulation 25 of the Pensions Regulations.

Compulsory
retirement.
[9 of 1970].

8. The President may require an officer to retire from the service of the State –

- (a) at any time after he attains the age of fifty-five years;

- (b) in special cases, with the approval of the Cabinet at any time after he attains the age of forty-five years;
- (c) in the case of a female officer, on marriage.

9. (1) Except in cases provided for by subsection (2), a pension granted to an officer made under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the State.

Maximum pension.
[12 of 1990].

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the funds of the State 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 him at any time in the course of his public service; and where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of the pension shall be deemed for the purpose of this subsection to be four-thirds of its actual amount.

(3) Where the limitation prescribed by subsection (2) operates, the amount of the pension to be drawn from the funds of the State shall be subject to the approval of the President, in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of the preceding subsections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Act, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his highest pensionable emoluments at any time in the course of his public service.

10. (1) Every pension granted under this Act shall be subject to the condition that unless or until the officer has attained the age of fifty years, he may, if physically fit for service, be called upon by the President to accept, in lieu of his pension, an office, whether in the State 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 his retirement.

Liability of pensioners to be called upon to take further employment.
[12 of 1990].

If a pensioner so called upon declines to accept such office the payment of his pension may be suspended until he has attained the age of fifty years.

(2) The provisions of subsection (1) shall not apply in any case where the President, acting on the advice of the Public Service Commission, otherwise directs, on the ground that the officer is not qualified for other employment in the public service or that there is no reason to expect that he can be shortly re-employed therein.

Suspension of pensions on re-employment.

11. If an officer to whom a pension has been granted under this Act or any Act hereby repealed is appointed to another office in the public service, the payment of his pension may with his consent, if the President thinks fit, be suspended or abated during the period of his re-employment.

Pensions, etc., not to be assignable.

12. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying –

- (a) a debt due to the Government; or
- (b) an order of any Court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the officer to whom the pension, gratuity or other allowance has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government.

Pensions, etc., to cease on bankruptcy.

13. (1) If any person to whom a pension or other allowance has been granted under this Act is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then the pension or allowance shall forthwith cease.

(2) If any person is adjudicated bankrupt or declared insolvent as aforesaid either –

- (a) after retirement in circumstances in which he is eligible for pension or allowance under this Act but before the pension or allowance is granted; or
- (b) before the retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement,

then, in the former case any pension or allowance eventually granted to him shall cease as from the date of adjudication or declaration, as the case may be, and, in the latter case, the pension or allowance may be granted, but shall cease forthwith and not become payable.

(3) Where a pension or allowance ceases by reason of this section, the President may, from time to time during the remainder of the person's life or during such shorter period or periods, either continuous or discontinuous, as he thinks fit, direct all or any part of the moneys to which the person would have been entitled by way of pension or allowance, had he not become bankrupt or insolvent, to be paid to, or applied for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, the person and any wife, child or children of his, in such proportions and manner as the President thinks proper, and the moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension or allowance has so ceased shall, for the purposes of this section, be regarded as applied for his benefit.

(5) When a person whose pension or allowance has so ceased obtains his discharge from bankruptcy or insolvency, the President may direct that the pension or allowance shall be restored as from the date of such discharge or any later date, and the pension or allowance shall be restored accordingly.

14. (1) If any person to whom a pension or other allowance has been granted under this Act is sentenced to a term of imprisonment exceeding twelve months by any competent court for any offence, the pension or allowance shall, if the President so directs, cease as from such date as the President determines.

*Pensions, etc., to
cease on
conviction.*

(2) If any person is sentenced as aforesaid after retirement in circumstances in which he is eligible for pension or allowances under this Act but before the pension or allowance is granted, then the foregoing subsection shall apply as respects any pension or allowance which may be granted to him.

(3) Where a pension or allowance ceases by reason of this section the President may direct all or any part of the moneys to which the person would have been entitled by way of pension or allowance had he not been sentenced as aforesaid to be paid, or applied, in the same manner in all respects as prescribed in section 13, and such moneys shall be paid or applied accordingly.

(4) If the person after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect; but in determining whether arrears of the pension or allowance

are payable to the person and in computing the amount thereof, account shall be taken of all moneys paid or applied under subsection (3).

Pensions, etc.,
may cease on
accepting certain
appointments.

15. If any person to whom a pension or other allowance has been granted under this Act otherwise than under section 17 becomes either a director of any company the principal part of whose business is in any way directly concerned with the State, or an officer or servant employed in the State by any such company, without the prior permission of the President in writing, the pension or allowance shall cease if the President so directs; but the President, on being satisfied that the person in respect of whose pension or allowance any such direction has been given has ceased to be director of such company or to be employed as an officer or servant of such company in the State, as the case may be, may give directions for the restoration of the pension or allowance, with retrospective effect, if he sees fit, to such a date as he specifies, and the pension or allowance shall be restored in accordance with any such directions.

Gratuity where
an officer dies in
the service or
after retirement.
[22 of 1965
38 of 1975
24 of 1980].

16. (1) (a) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in the service of the State, the President may grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater; and for the purposes of this section an officer who is holding a pensionable office and is on probation and who dies in the circumstances mentioned in section 17(1) shall be deemed to have been confirmed in his office.

(b) For the purposes of this subsection –

- (i) “annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in section 6(e);
- (ii) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation 24 of the Pensions Regulations if his public service had been wholly in the State and if he had retired at the date of his death in the circumstances described in section 6(e) and had elected to receive a gratuity and reduced pension.

(2) Where any officer to whom a pension, gratuity or other allowance has been granted under this Act dies after retirement from the service of the State, and the sums paid or payable to him at his death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement, the President may grant to his legal personal representative a gratuity equal to the deficiency.

(3) This section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Colonial Superannuation Scheme in respect of the death.

17. (1) Where an officer dies as a result of injuries received –

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

(b) without his own default, and

(c) on account of circumstances specifically attributable to the nature of his duty while in the service of the Government of Dominica the President may grant, in addition to the grant, if any, made to his legal personal representative under section 16 –

(i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or seventy-two dollars a year, whichever is the greater;

(ii) if the deceased officer leaves a widow to whom a pension is granted under subparagraph (i) and a child or children, a pension in respect of each child, until the child attains the age of eighteen years, of an amount not exceeding one-eighth of the pension prescribed under subparagraph (i);

(iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until the child attains the age of eighteen years, of double the amount prescribed by subparagraph (ii);

Pensions to dependants when an officer is killed on duty. [33 of 1978].

- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under subparagraph (i), and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until the child attains the age of eighteen years, of double the amount prescribed in subparagraph (ii);
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his 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, of an amount not exceeding the pension which might have been granted to his widow: Provided that –
 - (a) pension shall not be payable under this subsection at any time in respect of more than six children;
 - (b) in the case of a pension granted under subparagraph (v), if the mother is a widow at the time of the grant of the pension and subsequently remarries the pension shall cease as from the date of re-marriage; and if it appears to the President at any time that the mother is adequately provided with other means of support, the pension shall cease as from such date as the President may determine; and
 - (c) a pension granted to a female child under this section shall cease upon the marriage of the child under the age of eighteen years;
- (vi) if the deceased officer has no widow, children or mother eligible for pension under this section, his father or any brother or sister of his who was wholly or mainly dependent on him for support at the time of his death, a pension of an amount not exceeding the pension which might have been granted to his widow;
- (vii) the reference in subsection (1) to the widow of the person who is injured shall, where the person is a

female, be deemed to be a reference to her widowed husband if he was wholly or mainly dependent on her at the time of her death;

- (viii) in any of the cases contained in subparagraphs (ii) to (iv), free secondary education, in Dominica, for the dependents of the officer to the standard of the General Certificate of Education "A" level or its equivalent or until the dependents have attained the age of eighteen years, whichever is the earlier; and in the case of a female dependent provision for her education shall cease upon the marriage of such dependent.

(2) In the case of an officer not holding a pensionable office, the expression "pensionable emoluments" in subsection (1) means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) If an officer proceeding by a route approved by the President to or from the State at the commencement or termination of his service therein, or of a period of leave therefrom, dies as the result of damage to the vessel or vehicle in which he is travelling, or of any act of violence directed against the vessel or vehicle, and the President is satisfied that the damage or act is attributable to circumstances arising out of war in which the State may be engaged, the officer shall be deemed, for the purpose of this section, to have died in the circumstances described in subsection (1).

(4) For the purposes of this section, the word "child" shall include –

- (a) a posthumous child;
- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support; and
- (c) an adopted child, adopted in a manner recognised by law, before the date of the injury, and dependent as aforesaid.

(5) This section shall not apply in the case of the death of any officer selected for appointment to the service of the State on or after the appointed day if his dependants, as defined in the Workmen's Compensation Act, or any Act amending or replacing that Act, are entitled to compensation under that Act. Ch. 89:50.

(6) Where compensation in respect of the death of an officer selected for appointment to the service of the State before the appointed day is payable under the Workmen's Compensation Act, or any Act amending or replacing that Act, the President may reduce the pension which may be payable under this section to such an extent as he may consider reasonable.

(7) An officer who dies as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have died in the circumstances detailed in subsection (1)(a) and (c); but in such a case and if subsection (1)(b) is also satisfied the rates of a pension prescribed in subsection (1)(c)(i) and (ii) shall be fifteen-sixtieths and one-sixth respectively.

Non-application
to police force.

18. The members of the police service, except the Commissioner of Police, superintendents and assistant superintendents shall not come under the provisions of this Act.

Application of
Act.

19. (1) Subject to the provisions of section 18 the provisions of this Act shall apply –

(a) to every officer first appointed to the public service of the State –

(i) after the appointed day; or

(ii) before the appointed day, to whom it was intimated before appointment that he would be liable to be effected by any change in the pensions law of the State; and

(b) to every other officer who is serving in the State at the appointed day or has been transferred from the State to other public service before, and is still in the public service on that day, unless not later than twelve months after the appointed day or within such further period as the President may in any special case allow, he gives notice in writing to the President of his desire that the provisions of the written laws referred to in section 21 of this Act shall apply to him, in which case they shall continue to apply accordingly.

(2) If any officer who has given notice under subsection (1)(b) is thereafter re-appointed to the service of the State, this Act shall apply to him in respect of his whole service; but except where such an officer

eventually becomes eligible for a pension or gratuity under this Act in respect of his service both before and after his re-employment, a pension or gratuity granted to him solely in respect of service prior to the re-employment shall not be re-computed.

20. (1) For the purposes of this Act –

- (a) persons who were in the public service of the Presidency of Dominica before 1st January 1940 shall be deemed to have been in the public service of the State, and all such service in the Presidency shall be regarded as service in the State; and
- (b) persons who were in the public service of the Colony of the Leeward Islands before 1st January 1940 and who upon that date became officers of the public service of the State, shall be regarded as having been transferred from the public service of the Colony of the Leeward Islands to the public service of the State upon that date.

Saving of
existing rights.
[12 of 1990].

(2) (a) If any difficulty arises in connection with the application of this Act to any exceptional case, the President may after consultation with the Public Service Commission make such Order for removing the difficulty as he may judge to be necessary for that purpose, and any such Order may modify the provisions of this Act and any Regulations made thereunder so far as may appear to the President necessary for carrying the Order into effect.

(b) Every Order made under this subsection shall come or shall be deemed to have come into operation upon the date specified therein in that behalf.

(c) For the purposes of this subsection, any case where the rights of an officer under the Acts or Ordinances repealed by this Act and the Regulations under those Acts or Ordinances are or may be prejudiced or in any way affected by this Act shall be deemed to be an exceptional case, and the prejudicial or other effect shall be deemed to be a difficulty.

21. Without prejudice to the provisions of section 19 of this Act, the provisions of sections 13 to 16 of the Pensions Act (Cap. 130 of the 1927 Revised Edition of the Federal Acts of the Leeward Islands) shall continue to apply to pensions granted thereunder.

Savings.

Officers joining
the service on or
after 1st
February 1976.
Ch. 31:01.
[5 of 1990
11 of 1991].

* 22. (1) Notwithstanding section 57(1) of the Social Security Act a public officer whose employment or appointment commenced on or after 1st February, 1976 and –

- (a) who retires or resigns from the Public Service after ten or more years of continuous and satisfactory service shall, if he satisfies the provisions of this Act pertaining to the award of gratuity, be awarded a gratuity in accordance with this Act; or
- (b) who retires or resigns from the public service on or after he reaches the age of fifty years but before he reaches the age of sixty years shall, if he satisfies the provisions of this Act pertaining to the award of a pension, be awarded a pension in accordance with this Act.

(2) A person to whom subsection (1)(b) applies shall be paid a pension until he reaches the age of sixty years whereupon that pension shall cease and thereafter he shall, if he satisfies the provisions of the Social Security Act pertaining to the award of a pension, be awarded a pension in accordance with that Act.

Ch. 31:01.

* This section came into operation on the 22nd November, 1990.

SUBSIDIARY LEGISLATION

PENSIONS REGULATIONS

SUBSIDIARY LEGISLATION

PENSIONS REGULATIONS

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FIRST SCHEDULE.

SECOND SCHEDULE.

SUBSIDIARY LEGISLATION

PENSIONS REGULATIONS

Schedule to
9 of 1944.
[3 of 1963
12 of 1964
17 of 1964
22 of 1965
2 of 1966
10 of 1966
27 of 1967
10 of 1968
9 of 1970].

deemed to be made under section 3

Commencement.

[25th September 1944]

**PART I
PRELIMINARY**

Short title.

**1. These Regulations may be cited as the –
PENSIONS REGULATIONS.**

Interpretation.

2. In these Regulations –
“pensionable service” means service which may be taken into account in computing pension under these Regulations;
“qualifying service” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity or other allowance.

**PART II
OFFICERS WITHOUT OTHER PUBLIC SERVICE**

Application of
Part II.

3. Save when the President in any special case otherwise directs, this Part shall not apply in the case of any officer transferred to or from service under the Government of Dominica from or to other public service except for the purpose of determining whether the officer would have been eligible for pension or gratuity, and the amount of pension or gratuity for which the officer would have been eligible if service of the officer had been wholly under the Government of Dominica.

4. (1) Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government of Dominica, who has been in the service of Dominica in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service.

Pensions to whom and at what rates to be granted. [22 of 1965].

(2) All rights acquired by any officer under the provisions of regulation 4A of the Regulations passed on the 18th day of June, 1951 (Ordinance No. 19 of 1951) shall be preserved as if that regulation had not been revoked.

Retirement on medical certificate.

(3) Where an officer retires from public service under the Government of Dominica on or after 1st January 1965 in the circumstances described in section 6(5) of the Act, and at the time of his retirement his pensionable service was ten years or more but less than twenty years he may be granted in addition to the pension granted under subregulation (1) an additional pension at the annual rate of one six hundredth of his pensionable emoluments in respect of each complete month –

(a) by which his pensionable service falls short of twenty years, or

(b) if his pensionable service would have been for a shorter period than twenty years had he continued to hold the same office which he held at the date of his retirement and retired on attaining the age of sixty years, of such shorter period;

but in the case of an officer to whom subregulation (2) applies, he may be granted an additional pension under that subregulation, or an additional pension under this subregulation, whichever is the more favourable.

5. Every officer, otherwise qualified for a pension, who has not been in the service of Dominica in a civil capacity for ten years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 4.

Gratuities where length of service does not qualify for pension.

6. Where a female officer, who has been in public service under the Government of Dominica for not less than five years and has been confirmed in a pensionable office, retires or is required to retire from that service for the reason that she is about to marry or has married, and

Marriage gratuities. [17/1964].

she is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part, she may be granted on production within six months after her retirement, or such longer period as the President may in any particular case allow of satisfactory evidence of her marriage, a gratuity of an amount not exceeding –

- (a) one year's pensionable emoluments; or
- (b) five times the annual amount of the pension which might have been granted to her under regulation 4 had there been no qualifying period and had that regulation been applicable to her,

whichever amount is the less.

PART III

TRANSFERRED OFFICERS

Application of
Part III.

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

Interpretation.
[3 of 1963
10 of 1966].

8. (1) In this Part and Part IV –
“Scheduled Government” means –

First Schedule.

- (a) the Government of any territory, or any authority, mentioned in the First Schedule to these Regulations;
- (b) the Government of Ceylon in respect of any officer appointed to service under that Government before 4th February 1958;
- (c) the Government of Palestine in respect of any officer appointed to service under that Government before 15th May 1958;
- (d) the Government of the Somali Republic in respect of any officer appointed to service under that Government before 26th June 1960;
- (e) the Government of Cyprus in respect of any officer appointed to service under that Government before 16th August 1960;
- (f) the East African Common Services Organisation in respect of any person deemed to have been appointed or appointed to service as President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court

of Appeal for Eastern Africa by or under the Eastern Africa Court of Appeal Order in Council 1961;

(g) the Interim Commissioner for the West Indies in respect of any person deemed to have been appointed or appointed to service as Judge, Registrar, officer or servant of the British Caribbean Court of Appeal by or under the British Caribbean Court of Appeal Order in Council 1962;

(h) the Roseau City Council and the Portsmouth Town Council.

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

(2) Where an officer to whom this Part applies is, on his retirement from the public service, 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 held office or pensionable office therein for a specified period, he shall, nevertheless, be deemed for the purposes of this Part to have retired 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.

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

Pension for service wholly within the Group. [12 of 1964].

(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 Dominica –

(a) in the application of regulation 18, his pensionable

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

- (b) no regard shall be had to an additional pension under regulation 22 or regulation 23;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of his highest pensionable emoluments;
- (d) no period of other public service under a Scheduled Government in respect of which no pension or gratuity is granted to him shall be taken into account.

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

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under the Government of Dominica or a Scheduled Government in respect of which no pension or gratuity is granted to him by that Government or Scheduled Government, as the case may be;
- (b) where any service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officer's aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

Pension where
other service not
within the Group.

10. (1) Where the other public service of an officer to whom this Part applies has not included service under any of the Scheduled Governments, and his aggregate service would have qualified him, had it been wholly under the Government of Dominica, for a pension under

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

(2) Where the officer is not in the service of Dominica at the time of the retirement, his pensionable emoluments for the purposes of subregulation (1) shall be those which would have been taken for the purpose of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from the service of Dominica.

11. Where a part only of the other public service of an officer to whom this Part applies has been under one or more of the Scheduled Governments, the provisions of regulation 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the Group.

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

12. Where an officer to whom this Part applies retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not been in the public service in a civil capacity for ten years, he may be granted in respect of his service under the Government of Dominica 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 regulations 9, 10 or 11, as the case may be.

Gratuities where length of service does not qualify for pension.

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

Marriage gratuities. [17/1964].

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

(ii) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part,

she may be granted in respect of her public service under the Government of Dominica a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible

under regulation 9, 10 or 11 had there been no qualifying period and had regulation 9, 10 or 11, as the case may be, been applicable to her; and for the purpose of computing the amount of such a gratuity –

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

PART IV GENERAL

General rules as to qualifying service and pensionable service.

14. (1) Subject to these Regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service, without deduction of any period during which he has been absent on leave.

(2) No period which is not qualifying service by virtue of subregulation (1) shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

Continuity of service.

15. (1) Except as otherwise provided in these Regulations, only continuous service shall be taken into account as qualifying service or as pensionable service; but any break in service caused by temporary suspension of employment not arising from misconduct or voluntary resignation shall be disregarded for the purposes of this subregulation.

(2) An officer –

- (a) whose pension has been suspended under section 11 of the Act or under a corresponding provision in any written law relating to the grant of pensions in respect of public service; or
- (b) who has retired from the public service without pension on account of ill-health, abolition of office, or reorganisation designed to effect greater efficiency or economy,

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

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

may, if the President 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 the suspension, re-employment or employment had not occurred, the pension to be in lieu of –

- (i) any pension previously granted to him from the funds of the State; 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.

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

Leave without salary.

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

Service in Her Majesty's Forces.

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

Emoluments to be taken for computing pension or gratuity. [17/1964 29/1967].

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;

- (b) in the case of an officer who at any time during the period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of the transfer or transfers, otherwise than by the grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one-third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken; but –
- (i) if the one-third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and
- (ii) if the one-third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and has received all scale increments which, in the opinion of the President, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.
- (2) For the purpose of determining under subregulation (1) the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed –
- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if the increase had been payable throughout such period of three years; and if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments

of that office have not been considered in a general revision of pensionable emoluments, then, for the purposes of this regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the Chief Establishment Officer in his discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of the said revision.

(3) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of less than three years' pensionable service before his retirement –

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if the increase had been payable throughout such period.

(4) The estimated value of free quarters in respect of service in Dominica shall not exceed one-sixth of the actual salary of the office.

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

Service in non-pensionable office.

- (a) where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office and the officer is confirmed therein, the whole of such period may, with the approval of the President, be so taken into account;
- (b) any break in service which may be disregarded under regulation 15 may likewise be disregarded in determining for the purposes of paragraph (a) whether one period of service immediately follows another period of service;
- (c) where an officer has been transferred from a pensionable office in which he has been confirmed to a non-pensionable office and subsequently retires either from a pensionable office or a non-pensionable office, his

service in the non-pensionable office may, with the approval of the President, be taken into account as though it were service in the pensionable office which he held immediately prior to the transfer, and at the pensionable emoluments which were payable to him at the date of transfer;

- (d) where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall during that period be deemed for the purposes of regulations 6, 22 and 23 to be holding a pensionable office and, where that period is taken into account under paragraph (c), to have been confirmed therein.

Acting service.

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

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

and not otherwise.

Service under age of twenty or on probation or agreement.

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

- (a) any period of service while the officer was under the age of twenty years; or
- (b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service;

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

PART V
SUPPLEMENTARY

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

Abolition of office and re-organisation.

- (a) he may, if he has been in the public service for less than ten years, be granted in lieu of any gratuity, under regulation 5 or regulation 12, a pension under regulations 4, 9, 10 or 11, as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (b) he may, if he retires from the service of Dominica, be granted an additional pension at the annual rate of one-sixtieth of his pensionable emoluments for each complete period of three years' pensionable service; but –
 - (i) the addition shall not exceed ten-sixtieths; and
 - (ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age at which he may be required to retire without the approval of the President, having received all increments for which he would have been eligible by that date.

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

Officers retiring on account of injuries.

- (a) in the actual discharge of his duty; and
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty –
 - (i) he may, if his retirement is thereby necessitated or materially accelerated and he has been in the public service for less than ten years, be granted, in lieu of any gratuity under regulation 5 or regulation 12, a

pension under regulations 4, 9, 10 or 11, as the case may be, as if the words "for ten years or more" were omitted from the said regulation 4;

- (ii) he may, if so injured while in the service of Dominica, be granted on retirement an additional pension at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table:

When his capacity to contribute to his own support is –

slightly impaired, five-sixtieths;

impaired, ten-sixtieths;

materially impaired, fifteen-sixtieths;

totally destroyed, twenty-sixtieths;

but the amount of the additional pension may be reduced to such an extent as the President shall think reasonable where the injury is not the cause or the sole cause of retirement.

(2) An officer so injured while in the service of Dominica, not holding a pensionable office, or holding a pensionable office in which he has not been confirmed, may be granted on retirement a pension of the same amount as the additional pension which might be granted to him under subregulation (1) if his office were a pensionable office and he had been confirmed therein. Regulation 24 shall not apply to a pension granted under this subregulation.

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

(4) Subregulation (1)(c)(ii) and subregulation (2) shall not apply in the case of an officer selected for appointment to the service of Dominica on or after the appointed day, who, in consequence of his injury, is entitled to compensation under the Workmen's Compensation Act or any Act amending or replacing that Act.

(5) An officer who is permanently injured while travelling by air in pursuance of official instructions shall be deemed to have been injured in the circumstances detailed in subregulation (1)(a) and (c); but in such a case and if subregulation (1)(b) is also satisfied, the rates of pension prescribed in that subregulation shall be seven and a half sixtieths, fifteen sixtieths, twenty-two and a half sixtieths and thirty sixtieths respectively.

24. (1) Any officer to whom a pension is granted under the Act may, at his option exercisable as provided in this regulation, be paid in lieu of such pension a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and a half times the amount of the reduction so made in the pension; but in the application of this regulation to cases where the limitation prescribed by section 9(2) of the Act operates, the words "such pension" shall mean the amount of pension which the officer might have drawn from the funds of the State if he had not exercised his option under this regulation. Gratuity and reduced pension.

(2) The option referred to in subregulation (1) shall be exercisable not later than the day immediately preceding the date of the officer's retirement; but the President may, if it appears to him in all the circumstances equitable to do so, allow him to exercise the option at any time between the date of his retirement and the date of award of pension under the Act; and –

- (a) if an officer has exercised the option, his decision shall be irrevocable after the date of his retirement;
- (b) if an officer who has not exercised the option dies after the date of retirement but before a pension has been awarded under the Act, the President may grant a gratuity and a reduced pension as provided in subregulation (1), as if the officer had exercised the option before his death; and
- (c) the date of the exercise of the option by an officer shall be deemed to be the date of the receipt of his written notification addressed to the President.

25. Where an officer who has been transferred from other public service and whose aggregate service would have rendered him eligible, had it been wholly under the Government of Dominica, for a pension under these Regulations, retires from the public service in the circumstances described in section 6(5) of the Act he may, if at the time he is Additional pension.
[22 of 1965
10/1968].

in public service under the Government of Dominica, be granted the additional pension allowed by regulation 4(3) or, if he is an officer to whom regulation 4(2) applies, by that subregulation, as well as the pension granted under regulation 9, 10 or 11.

Gratuity may be granted after ten years' continuous pensionable service. [9 of 1970].

26. Where an officer holding a pensionable office, who has completed not less than ten years continuous pensionable service under the Government of Dominica resigns from that service, he may be granted a gratuity calculated on the same basis as the gratuity payable in the case of an officer who has exercised an option to receive a reduced pension and gratuity under regulation 24(1).

PART VI

TRANSITIONAL REGULATIONS

Definition of "serving officer".

27. The expression "serving officer" means an officer who is serving in Dominica at the appointed day or has been transferred from Dominica to other public service before, and is still in the public service on that day; but if pension, gratuity or other allowance is granted to such an officer in respect of service which, owing to a break in service, does not include service in Dominica before the appointed day, the said expression shall not include him in relation to that pension, gratuity or allowance.

Pensionable emoluments of serving officer to include fees paid as salary.

28. The pensionable emoluments of a serving officer shall include fees paid out of the Treasury by way of salary.

Application to officers holding pensionable office on or before effective date.

29. (1) In the case of an officer who –

- (a) held a pensionable office in Dominica on 27th March, 1936 (in this regulation referred to as "the effective date"); or
- (b) had prior to the effective date held such an office and been transferred to other public service and was at that date in other public service; or
- (c) prior to the effective date was offered and accepted appointment to the service of Dominica on conditions which provided that any pension granted to him in respect of service in Dominica would be at the rate applicable before the effective date;

the following subregulations shall apply.

(2) These Regulations shall have effect (if to the benefit of the officer) as if for regulation 4 the following regulation was substituted:

“4. Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office in Dominica, who has been in the service of Dominica in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one hundred and sixty six-hundredths of his pensionable emoluments with an addition of one six-hundredth in respect of each complete month of his pensionable service in excess of ten years.”

(3) In computing the service of such officer in Dominica for the purposes of regulation 10 (if applicable), an addition may be made which shall bear the same proportion to five years as his pensionable service in Dominica bears to the whole of his public service in tropical climates; but no such addition shall be made unless the officer has had at least ten years' public service in tropical climates; and where any such officer either before or after the effective date has been transferred to other public service and has been re-appointed after that date to the service of Dominica, this regulation shall apply to him as regards the period or periods of his service prior to that re-appointment and not otherwise, and the pension of such officer in respect of service in Dominica shall be computed in two parts according as to whether it is or is not service to which this regulation applies, and in either computation the other period of service in Dominica shall be treated, for the purposes of the regulations relating to officers who have been transferred to or from the service of Dominica, as though it had been service under another Scheduled Government.

30. In the case of a serving officer regulation 22(2) shall, if it is to his advantage, have effect as if for the words from “he may” to “pensionable service” there were substituted the following:

Application to regulation 22(2).

“if he retires from the service of Dominica and has been in the public service for ten years or more, he may be granted a pension at the annual rate of one six-hundredth of his pensionable emoluments for each complete month of his pensionable service with the addition of the following number of six-hundredths.

- (a) in the case of an officer who has been in the public service twenty years or more, one hundred;
- (b) in the case of an officer who has been in the public service

less than twenty years but not less than fifteen years, seventy;

(c) in the case of an officer who has been in the public service less than fifteen years but not less than ten years, fifty.”

Application to regulation 19.

31. In the case of a serving officer the following shall, if to his advantage, be deemed to be substituted for regulation 19:

“No service other than service in a pensionable office, will be taken into account in computing pensions or gratuities, except that where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, or of service in the police service for such period, or any part of such period, may be taken into account; but of the period of service paid for out of an open vote, only two-thirds shall be counted for the purposes of these Regulations; and when any office is declared a pensionable office, the President may, by a Notification published in the *Gazette*, declare, with or without any terms, conditions or limitations, that service in such office before the same was declared pensionable may be taken into account in computing an officer’s pension, gratuity or allowance, and it shall be taken in account accordingly; and in the case of an officer transferred to or from the service of Dominica from or to other public service, service otherwise than in a pensionable office under the Government of Dominica or in other public service shall be taken into account only if he has served in a pensionable office in Dominica or that service, as the case may be.”

Application to regulation 23(4).

32. In the case of an officer selected for appointment to the service of Dominica before the appointed day, regulation 23(4) shall not apply, but the amount of additional pension under that regulation may be reduced to such an extent as the President shall think reasonable if compensation in respect of the injury is payable under the provisions of the Workmen’s Compensation Act, or any Act amending or replacing that Act.

Ch. 89:50.

33. (1) The provisions of this regulation shall apply in the case of a serving officer.

(2) In computing the pension of an officer other than one to whom Part III applies, who on retirement from the service, holds one of the offices mentioned in the Second Schedule, the additions mentioned in the said Schedule may be made to his period of service: Provided that no addition shall be made which, together with the number of years of actual service, shall amount to more than thirty-five years; and 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 in the said Schedule; but, if he has served less than ten years in such an office, an addition may be made which shall have the like proportion to the full addition which the number of years he has served in such capacity bears to ten years: Provided also that no addition of years shall be made under this regulation in excess of the number of years by which the officer's age at the date of his entering the pensionable service of the State exceeded twenty years.

(3) Where an officer has been transferred to or from the service of Dominica 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 Dominica, and had held for twelve consecutive months prior thereto one of the offices mentioned in the Second Schedule 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 regulations 9, 10 or 11, as the case may be, an additional pension which shall bear to the additional pension which he might have received under subregulation (2) if he had had no other public service the same proportion which the length of his pensionable service in Dominica bears to the length of his total pensionable service in the public service: Provided that –

- (a) he shall not be disqualified from receiving an additional pension by reason of the fact that his service in Dominica would not by itself have rendered him eligible for a pension; and
- (b) in determining the additional 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 entering the public service but regard shall not be had save for

Preserving rights of serving officers with professional qualifications.

Second Schedule.

the purposes of the following proviso to the second proviso to subregulation (2); and

- (c) the additional pension actually granted under this regulation shall not be greater than that which might have been granted under subregulation (2) if he had had no other public service.

(3) This regulation shall apply only to an officer who has held an office mentioned in the Second Schedule before the appointed day. In computing an addition to his service or pension under this regulation, no service subsequent to his appointment on or after that day to any other office, whether in Dominica or other public service, except an office in the same class in the said Schedule, shall be taken into account as service in an office mentioned in that Schedule, and the addition shall be that appropriate to the last office held by him which may be so taken into account and his service in that office (including any other office in the same class).

Application to regulation.

34. (1) In the case of a serving officer subregulation (2) shall, if to his advantage, apply.

(2) In the case of an officer who is not qualified for a pension or gratuity under these Regulations, but has continuously served in Dominica for fifteen years or upwards, during which period he has been required to give his whole time to the service of the Government, a monthly allowance may be granted to such officer not exceeding three-fourths of the pension to which he would have been entitled had he been employed in a pensionable office (but in any case not less than ten dollars per month) or in lieu of such allowance there may be paid to him a capital sum equal to the amount of sixty of such monthly payments, or in lieu of such allowance or such capital sum a reduced monthly allowance of three-fourths of such allowance together with a capital sum of one hundred and twenty times the amount of the reduction so made in the said monthly allowance, but no such capital sum shall be paid in any case of retirement on the ground of health: Provided that where an officer has been transferred from a pensionable to a non-pensionable office, he shall be entitled either –

- (a) to count his service in the non-pensionable office, as though it were service in a pensionable office at the pay which he received immediately prior to such transfer; or

(b) to count his service in the pensionable office, as though it were service in the non-pensionable office, and to take the benefit of this regulation accordingly.

(3) In subregulation (2)(a) the word "pay" means the emoluments enjoyed by the officer which would have been pensionable emoluments if the office held by him had been a pensionable office.

FIRST SCHEDULE

Reg. 8(1).
[3 of 1963
17/1964
2/1966].

Aden.	Kenya.
Antigua.	Kenya and Uganda Railways and Harbours Administration.
Bahamas.	Leeward Islands (before 1st July, 1956).
Barbados.	Malayan Establishment.
Basutoland.	Malayan Union.
Bechuanaland Protectorate.	Malaysia.
Bermuda.	Malta.
British Guiana.	Mauritius.
British Honduras.	Mid West Nigeria.
Cayman Islands.	Montserrat.
Colonial Audit Department (Home Establishment).	Nigeria
Crown Agents for the Colonies.	Northern Region of Nigeria.
East Africa High Commission.	Northern Rhodesia.
East Africa Railways and Harbours Administration.	Nyasaland.
Eastern Region of Nigeria.	St. Christopher, Nevis, Anguilla.
Falkland Islands.	St. Helena.
Federated Malay States.	St. Lucia.
Federation of Malaya.	St. Vincent.
Federation of Nigeria.	Sabah.
Federation of Rhodesia and Fiji.	Sarawak – North Borneo.
Gambia.	Service under the Overseas Service Ordinance, 1958.
Ghana.	Seychelles.
Gibraltar.	Sierra Leone.
Gold Coast.	Singapore.
Grenada.	Somaliland Protectorate.
Hong Kong.	Straits Settlements.
Interim Commissioner for the West Indies.	Swaziland.
Jamaica.	Tanganyika Territory.
	The West Indies (23/1959).
	Tonga.

Trinidad.	Virgin Islands.
Turks and Caicos Islands.	Western Pacific –
Uganda.	Gilbert and Ellice Islands.
United Kingdom of Great	Colony, British Solomon
Britain and Northern	Islands Protectorate, New
Ireland.	Hebrides.
United Republic of	Western Region of Nigeria.
Tanzania.	Zanzibar.

Reg. 34.

SECOND SCHEDULE

The number of years to be added to the period of service under regulation 34 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.

First class comprises :

Judges of the Supreme Court.

Second class :

Attorney General.
Surveyor of public works, when a civil engineer.

Third class :

Crown attorneys.
Medical officers.
District Magistrates, when barristers-at-law, solicitors, or advocates of the Scotch Bar.
Surveyor of public works, not a civil engineer.

SUBSIDIARY LEGISLATION

PENSIONABLE OFFICES ORDER

22/1945.*

made under section 3

[9th July 1945]

Commencement.

1. This Order may be cited as the –

Short title.

PENSIONABLE OFFICES ORDER.

2. The public offices specified in the Schedule are hereby declared to be pensionable offices within the meaning of the Pensions Act.

Pensionable of-
fices.

3. Any office heretofore declared to be pensionable, which office is not included in the Schedule, is hereby declared to be no longer pensionable; but nothing in this Order shall affect the pension rights, in respect of any office which by reason of this section of this Order is no longer pensionable, of the holder of such office so long as he holds such office, or of any former holder of any such office.

Offices no longer
pensionable.

SCHEDULE

Accountant General
 Agricultural Assistant
 Agricultural Instructor
 Agricultural Officer
 Airport Manager
 Air Traffic Controller
 Announcer, Broadcasting
 Announcer/Operator, WIBS
 Apprentice, Government Printery
 Assessor
 Assistant Airport Manager
 Assistant Buildings Superintendent
 Assistant Comptroller of Inland Revenue
 Assistant Engineer, WIBS
 Assistant Government Printer

* This Order has been amended by 36/1957; 14 and 40/1958; 21/1960; 14/1962; 43 and 48/1966; 1/1970 and 31/1972.

Assistant Janitor
Assistant Librarian
Assistant Matron
Assistant Mechanic (Fisheries)
Assistant Mechanical Superintendent
Assistant Postmaster General
Assistant Record Librarian, WIBS
Assistant Secretary
Assistant Social Development Officer
Assistant Superintendent of Police
Assistant Superintendent of Prisons
Assistant Surveyor
Assistant Technical Lecturer
Assistant Youth Development Officer
Assistant Technician (Med. Lab.)
Assistant Teacher (Unqualified)
Attendant
Attorney General
Auditor
Bailiff
Boatman
Buildings Superintendent
Building Inspector and Construction Foreman
Caretaker-Messenger
Chemist (Produce)
Chief Agricultural Officer
Chief Education Officer
Chief Engineer WIBS
Chief Establishment Officer
Chief Fire Officer
Chief Forest Officer
Chief Justice
Chief Magistrate
Chief Medical Officer
Chief Prison Officer
Chief Programme Officer, WIBS
Chief Public Health Inspector
Chief Registrar
Chief Technical Officer (Works)
Chief Youth Development Officer
Child Guidance Officer
Clerk of Chief Justice
Clerk, House of Assembly
Clerk, WIBS
Clinical Instructor

Collector of Customs
Commissioner of Police
Community Development Officer
Comptroller of Customs & Excise
Comptroller of Inland Revenue
Construction Foreman
Co-operative Officer
Craft Teacher
Crown Lands Officer
Crown Lands Ranger
Crown Surveyor and Commissioner of Lands
Customs Guard
Customs Officer
Departmental Sister
Deputy Chief Agricultural Officer
Deputy Chief Fire Officer
Deputy Chief Technical Officer (Works)
Deputy Commissioner of Police
Deputy Financial Secretary
Deputy Labour Commissioner
Deputy Registrar and Clerk of Court
Deputy Headmaster, Dominica Grammar School
Dental Surgeon
Director of Audit
Dispenser
District Midwife
District Nurse
Draftsman
Draftsman/Estimator
Economist
Education Officer
Electrical Superintendent
Electrical Technician
Electrician
Engineer
Engineering Assistant
Excise Officer
Executive Officer
Field Technician (Geology)
Finance Officer C. H. & P.A.
Financial Secretary
Fireman
Fisheries Extension Officer
Fisheries Officer
Food Supervisor, P.M.H.

Foreman (Agriculture)
Foreman (Head Stockman)
Forest Guard
Forest Ranger
Gatekeeper and Male Attendant (Leper Home)
Government Printer
Governor's Orderly
Governor's Secretary and A.D.C.
Graduate Teacher
Headmaster (Dominica Grammar School)
Head Propagator
Health Visitor
Hospital Administrator
House Keeper, Boys Hostel (Dominica Grammar School)
House Keeper, Nurses Hostel
House Keeper, Princess Margaret Hospital
Instrument Man
Janitor
Junior Clerk
Junior Control Clerk, (Computer)
Junior Draughtsman
Junior Statistical Assistant
Justice of Appeal
Laboratory Assistant, Dominica Grammar School
Laboratory Assistant (Produce)
Laboratory Attendant (Medical)
Laboratory Technician (Engineering Soils)
Laboratory Technician (Geology)
Laboratory Technician (Medical)
Labour Commissioner
Labour Officer
Leading Fireman
Legal Assistant
Librarian
Library Assistant
Local Government Commissioner
Local Government Officer
Magistrate
Maintenance Foreman
Maintenance Technician
Manager, Broadcasting
Manager, Computer Centre
Manager & Programme Director, WIBS
Master, Leper Home
Matron (Princess Margaret Hospital)

Matron (Prisons)
Mechanic (Fisheries)
Mechanical Operator, Port and Marine
Mechanical Superintendent
Medical Officer
Medical Officer of Health
Medical Storekeeper
Messenger
Meteorological Assistant
Nurse (Other than Student)
Nursing Assistant
Nursing Attendant
Nursing Superintendent
Office Attendant
Office Superintendent, WIBS
Operator, WIBS
Orderly
Orderly/Driver
Operator, Computer
P.B.X. Operator
Permanent Secretary
Pharmacist
Physical Planning Assistant
Port Attendant
Porter/Messenger
Postman
Postmaster General
Price Control Enforcement Officer
Principal, Primary School
Principal, Secondary School
Principal, Teachers Training College
Principal, Technical College
Printing Technician
Prison Officer (Female)
Prison Officer (Male)
Programme Assistant, Broadcasting
Programme Assistant, WIBS
Programmer, Computer
Project Inspector
Public Health Inspector
Puisne Judge
Puncher
Qualified Assistant Teacher
Radiographer
Registrar and Chief Co-operative Officer

Registrar, Registrar General and Provost Marshall
Registry Assistant
Record Librarian, WIBS
Road Supervisor
Roads Superintendent
Sales Assistant, Broadcasting
School Attendance Officer
Seamstress (Princess Margaret Hospital)
Secretary and Chief Technical Officer, C. H. & P.A.
Secretary, Services Commissions
Secretary to the Cabinet
Secretary Planning and Development
Secretary to the Chief Justice
Senior Agricultural Assistant
Senior Assistant Forest Officer
Senior Assistant Secretary
Senior Chauffeur
Senior Clerk
Senior Control Clerk, Computer
Senior Customs Guard
Senior Dispenser
Senior Executive Officer
Senior Health Visitor
Senior Laboratory Technician (Medical)
Senior Mechanical Operator, Port and Marine
Senior Orderly Driver
Senior Port Officer and Harbour Master
Senior Postman
Senior Printing Technician
Senior Prison Officer
Senior Public Health Inspector
Senior Seamstress
Senior Statistical Assistant
Senior Technical Assistant, WIBS
Senior Technician, Broadcasting
Senior Technical Instructor
Shorthand Writer, WIBS
Sister/Ward Sister
Sister Tutor
Specialist Medical Officer
Specialist Teacher
Social Development Officer
Station Officer (Fire Service)
Stenographer, Court of Appeal
Steno-Typist

Statistical Officer
Steward/Dispenser (Portsmouth Hospital)
Steward, Princess Margaret Hospital
Storekeeper, Botanical Gardens
Storeroom Porter, Public Works
Sub-Editor, WIBS
Sub-Station Officer, (Fire Service)
Superintendent, Mental Home
Superintendent of Prisons
Supernumerary Clerk
Supervisor, Customs & Excise
Supervisor, Technical Wing
Surveyor
Systems Analyst, Computer
Technical Assistant, WIBS
Technical Lecturer
Technician, Broadcasting
Technical Instructor
Timekeeper
Tutor, Teachers Training College
Verifier
Veterinary Officer
Visual Aids Officer
Warehouseman
Wharf Supervisor
X-Ray Assistant
Youth Officer.
