

TANGANYIKA



No. 50 OF 1962

I ASSENT,

Rh Thumbe

.....
Governor-General

..... 18 TH JULY, 1962

An Act to make provision for the Premature Retirement of certain officers in the Public Service

[20TH JULY, 1962]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Retirement (Special Provisions) Act, *short title* 1962.

2.-(1) In this Act, unless the context otherwise requires- Interpretation

"African" means a citizen of Tanganyika who is, a person of African race and includes any such citizen who is a Swahili or either of whose parents is, or if deceased was, a person of African race; "appropriate Service Commission"-

- (a) in relation to an officer who can be removed from his office by the Judicial Service Commission, means that Commission;
- (b) in relation to an officer who can be removed from his office by the Police Service Commission, means that Commission; and
- (c) in any other case, means the Public Service Commission;

"minimum tour of duty" means the appropriate minimum tour of residential service in Tanganyika which, in accordance with the staff regulations which apply to him, an officer on overseas leave terms of service is required to serve before he becomes eligible for a paid passage to a country or place outside East Africa and the territories contiguous thereto when proceeding on overseas leave;

"overseas leave terms of service" means terms of service under which an officer is eligible when proceeding on leave (other than sabbatical leave) for a paid passage to a country or place outside East Africa and the territories contiguous thereto, and "overseas leave" means leave (other than sabbatical leave) during which an officer is eligible for such paid passage;

"pensionable emoluments" means emoluments that may be taken into account in computing the pension of an officer under the Pensions Ordinance; cap. 371

"pensionable service" means the aggregate amount of service that may be taken in-to account for the Purpose of computing the pension of an officer under the Pensions Ordinance;

"public service" means service in a civil capacity under the Government

"qualified officer" means an officer in the public service who-

- (a) was, before the first day of January, 1961, appointed or selected for appointment to an office in the -public service, being a pensionable office for the purpose of the Pensions Ordinance; and
- (b) has at all times since the first day of July, 1961 (or the date on which he was confirmed in his appointment, whichever is the later) been the substantive holder of an office that has throughout his tenure thereof been a pensionable office,

but does not include-

- (i) an officer who is an entitled officer within the meaning of that expression in the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961;
- (ii) an African officer;
- (iii) an officer seconded or temporarily transferred to Tanganyika from other public service; or
- (iv) an officer on leave pending retirement on the first day of July, 1961;

G.N. 1961
No. 398

"substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract;

"superseded" has the meaning ascribed to it in section 13.

(2) Notwithstanding the provisions of paragraph (b) of the definition "qualified officer", the Prime Minister may declare an officer-

- (a) who satisfies the description, other than that part contained in paragraph (b), in that definition; and
- (b) who ceased to be the substantive holder of a pensionable office in the public service by reason of his resignation or retirement from the public service between the first day of July, 1961, and the date on which this Act comes into operation; and
- (c) in respect of whom the appropriate Service Commission issues a certificate under subsection (2) of section 13,

to be a qualified officer, and, where he makes such a declaration, the Prime Minister may direct that such officer's resignation or retirement shall be treated, for the purposes of this Act and with such modifications and conditions as may be set out in the directions, as retirement under section 4.

**Compulsory
retirement**

3. If the Prime Minister, or such other Minister as may be nominated in that behalf by the Prime Minister, so requests, the appropriate Service Commission shall consider whether there are more African candidates qualified for appointment to, or promotion in, any particular branch or category of officers in the public service than there are vacancies in such branch or category that could be appropriately filled by such African candidates; and the appropriate Service Commission, if satisfied that such is the case, shall, if requested by the Prime Minister or such other Minister, select qualified officers (not being citizens of Tanganyika) in that branch or category whose retirement would in the opinion of the Commission cause vacancies that could appropriately be

filled by such suitably qualified African candidates as are available and fit for appointment and inform the Prime Minister or other Minister, as the case may be, of the number of officers so selected; and if the Prime Minister or other Minister specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected), the appropriate Service Commission shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service under this section, and any such officer who is so required to retire shall retire accordingly:

Provided that—

- (a) every officer who is required to retire under this section, other than an officer who is on overseas leave at the time when he is served with notice requiring him to retire, shall—
 - (i) be entitled to not less than twelve months notice of the date on which he is so required to retire; and
 - (ii) if the period of leave on full pensionable emoluments for which he is eligible pending his retirement is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to six months;
- (b) every officer who is on overseas leave at the time he is served with notice requiring him to retire under this section shall be granted a period of six months leave in addition to the portion of his overseas leave then unexpired, and shall retire at the end of such additional leave.

4. (1) Subject to the provisions of sections 6 and 7, and after giving the notice prescribed in subsection (2) of this section, a qualified officer whom the appropriate Service Commission has certified has been superseded by an African (whether or not such African was in the public service prior to the supersession of such qualified officer) in pursuance of the Government's policy of Africanisation of the public service, may retire from the public service under this section at any time.

Voluntary
retirement
on the
grounds of
supersession

(2) A qualified officer who elects to retire under this section shall give at least six months notice of his intention to retire, which period of six months shall—

- (a) be exclusive of any period, of leave for which such officer may be eligible; and
- (b) in the case of an officer on overseas leave terms of service who gives notice within six months of his return to duty from overseas leave, not commence to run until he has completed six months residential service in Tanganyika after his last return from overseas leave.

5.-(1) Subject to the provisions of sections 6 and 7, and after giving the notice prescribed in subsections (2) and (3) of this section—

- (a) a qualified officer on overseas leave terms of service may retire from the public service under this section after the thirtieth day of June, 1966, at the completion of a tour of residential service, not being less than a minimum tour of duty, or during, or at the completion of, overseas leave;

Voluntary
retirement
after
30.6.1966

(b) any other qualified officer may retire from the public service under this section at any time after the thirtieth day of June, 1966.

(2) A qualified officer who elects to retire under this section shall give at least six months notice of his intention to retire, which period of six months shall be exclusive of any period of leave for which such officer may be eligible.

(3) Except with the approval of the appropriate Service Commission, notice of intention to retire under this section may not be given before the first day of January, 1966.

General provisions relating to voluntary retirement

6.-(1) No qualified officer may retire under section 4 or section 5 without the permission of the appropriate Service Commission:

Provided that such Commission shall not withhold permission unless disciplinary proceedings are being taken, or are about to be taken, against the officer and those proceedings might lead to his dismissal.

(2) The appropriate Service Commission may waive any period of notice provided for in section 4 or section 5 or may permit a qualified officer to go on leave pending his retirement at a date earlier than that provided for in section 4 or section 5.

(3) A qualified officer who gives notice of his intention to retire under section 4 or section 5, may, with the consent of the Prime Minister, or such other Minister as may be nominated in that behalf by the Prime Minister, withdraw such notice at any time before it expires. Before giving such consent, the Prime Minister or such Minister as aforesaid shall consult the appropriate Service Commission.

Cessation of entitlement to retire under sections 4 and 5

7. If the provisions of the laws relating to appointments and promotions in the public service whereby preferences in such appointments and promotions are accorded to African citizens are revoked without replacement and the Prime Minister gives notice in the *Gazette* that such preferences shall cease to be accorded-

- (a) the entitlement of a qualified officer who is a citizen of Tanganyika, and who has previously been superseded, to retire under section 4 shall cease on the first anniversary of the date of the publication of such notice;
- (b) the entitlement of a qualified officer who is, or who subsequently becomes, a citizen of Tanganyika to retire under section 5, shall cease on the date of the publication of such notice, or of his becoming a citizen, whichever is the later.

Grant of pensions and gratuities

8. Subject to the Provisions of section 11, a qualified officer who retires under this Act may be granted a pension or, at his option, a reduced pension and gratuity in accordance with the Pensions Ordinance, notwithstanding-

- (a) that he may have retired before attaining the age specified in the Pensions Ordinance as qualifying him for the grant of a pension; or
- (b) that he may not have completed at the date of his retirement the period of qualifying service required, by the Pensions Ordinance ~ to render him eligible for the grant of a pension:

Provided that for the purposes of this section-

- (a) the amount of the pension that may be granted under the Pensions Ordinance to-
 - (i) an officer who is required to retire under section 3; or
 - (ii) an officer who retires under section 4, not being an officer who has been promoted since the date on which the certificate of supersession whereby he is entitled so to retire was issued,

shall be calculated as if his annual pensionable emoluments on the day immediately before his retirement were the emoluments to be taken for computing his pension under the Pensions Ordinance;
- (b) where an officer who is required to retire under section 3 elects to be paid, in lieu of a pension, a reduced pension and gratuity in accordance with the Pensions Ordinance, the gratuity shall be calculated by multiplying the amount by which the pension is so reduced by -the factor obtained from the Schedule to this Act that is appropriate to the age of the officer at his retirement reckoned in completed years and months, in lieu of the factor specified in the Pensions Ordinance

9.-(1) Subject to the provisions of section 11-

- (a) an officer who is required to retire under section 3; and
- (b) an officer who retires under section 4,

Additional allowance

shall be entitled, in addition, to any pension or gratuity payable in accordance with the Pensions Ordinance, to an additional annual allowance during the period he is paid a pension or reduced pension under the Pensions Ordinance at the annual rate of one one hundred and eightieth of the officer's annual pensionable emoluments on the day immediately before his retirement for each complete year of his pensionable service:

Provided that-

- (a) where the sum of the allowance and of any pension (not being a reduced pension) for which such officer may be eligible in accordance with the Pensions Ordinance exceeds the pension for which he would have been eligible under the Pensions Ordinance if he had continued to hold the office held by him at the date of his retirement and retired on attaining the age at which he is required by that Ordinance to retire, having received all increments for which he would have been eligible by such latter date, the additional allowance shall be reduced by the amount by which such sum aforesaid exceeds such hypothetical pension;
- (b) in the case of an officer who retires under section 4, being an officer who has been promoted since the date on which the certificate of supersession whereby he is entitled so to retire was issued, the additional allowance shall not be calculated by reference to

his annual pensionable emoluments on the day immediately before
 his retirement, but shall, instead, be calculated by reference to
 the emoluments to be taken for computing his pension under the
 Pensions Ordinance.

(2) An officer who is entitled to the additional allowance provided for
 in subsection (1) may, at his option (such option to be exercised before
 the date of retirement), be paid in lieu of such allowance, a reduced
 allowance at the rate of three-fourths or any greater fraction of the
 annual amount of such allowance aforesaid together with a gratuity
 which shall be calculated by multiplying the amount by which the
 annual amount of the allowance is so reduced by the factor obtained
 from the Schedule to this Act that is appropriate to the age of the
 officer at his retirement reckoned in completed years and months.

(3) Payment of the gratuity to which this section refers shall be
 made immediately after the date of retirement.

Qualified
 officers
 whose
 offices are
 abolished

10. Where a qualified officer is required to retire in consequence of
 the abolition of his office or for the purposes of facilitating improvements
 in the organization of the, part of the public service to which he belongs
 by which greater efficiency or economy may be effected, he shall be
 deemed, for the purpose of this Act, to have been required to retire under
 the provisions of section 3 and the provisions of this Act shall apply to
 such an officer as if he had been so required to retire under section 3
 save that he shall not be entitled to any such notice or additional leave
 as are provided for in the proviso to section 3.

...

of Pensions
 Ordinance

11.-(1) The provisions of the Pensions Ordinance shall, subject to
 the provisions of this Act, apply in relation to the grant of the Pensions,
 allowances and gratuities provided for in sections 8 and 9 of this Act and
 to every such pension, allowance or gratuity in the same manner as they
 apply to the grant of a pension or gratuity, and to any pension or
 gratuity granted, under the Pensions Ordinance:

Provided that section 12 of the Pensions Ordinance or any law amend-
 ing; or replacing that section shall not apply to any pension provided
 for in section 8 of this Act.

(2) No qualified officer who has been granted the additional allowance
 provided for in section 9 shall be granted any additional pension payable
 under the Pensions Ordinance to an officer who retires from the public
 service in consequence of the abolition of his office or for the purposes
 of facilitating improvements in the organization of that part of the
 public, service to which he belongs by which greater efficiency or
 economy may be effected -

Death of
 qualified
 officer
 required to
 retire under
 section 3

12. Where a qualified officer, who has been served with notice requir-
 ing him to retire under section 3, dies before he retires from the public
 service in compliance with such requirement, there may be paid to his
 legal personal representatives, either-

- (a) a sum equal to the -gratuity that is payable under section 19 of the
 pensions ordinance; or

- (b) a sum equal to the gratuity that would have been paid to the officer had he retired from the public service under section 3 of this Ordinance on the day of his death and elected to commute one-quarter of his pension and one-quarter of the additional allowance provided for in section 9 in accordance with the provisions of this Act,

whichever is the greater:

Provided that the Permanent Secretary to the Treasury may direct that instead of being paid to the legal personal representatives, any sum payable under this section shall be paid to one of the dependants of the deceased or be divided among any two or more of those dependants in such proportions as the Permanent Secretary may think fit.

13.-(1) Whenever a Service Commission selects an African officer or candidate for appointment to, or promotion in, the public service, it shall consider whether, but for the preferences in favour of African officers or candidates to which, for the time being, it is required to have regard, it would have selected a particular qualified officer, and if, in any such case, it would have selected a particular qualified officer, it shall certify the fact and issue a copy of such certificate to the officer concerned; and such an officer shall be deemed to have been superseded for the purposes of this Act:

Provisions
relating to
supersession

Provided that-

- (a) where vacancies in offices in the public service have been publicly advertised, the appropriate Service Commission shall not make or issue a certificate in respect of any qualified officer who does not himself apply for appointment to that post;
- (b) where in pursuance of this section the appropriate Service Commission would be required to make and issue a certificate in respect of a qualified officer in respect of whom it has already made and issued a certificate under this section, it shall not make or issue a further certificate in respect of that officer, but shall instead consider whether but for such preferences aforesaid and such first mentioned qualified officer's candidature it would have selected some other qualified officer, and if it would have selected some other such officer, it shall certify the fact and issue a copy of such certificate to such other officer, and that other officer shall be deemed to have been superseded for the purposes of this Act.

(2) Subsection (1) of this section shall be deemed to have come into operation on the first day of July, 1961, and, as soon as may be convenient after the enactment of this Act, every Service Commission shall consider every appointment and promotion to which that subsection refers made since the first day of July, 1961, and, where it considers that a certificate should issue under that subsection, issue a certificate accordingly:

Provided that for the purposes of this subsection there shall be substituted for the definition "African" set out in section 2 the definition "African" set out in the regulations which applied to the Appropriate Service Commission at the time of the relevant appointment or promotion.

SCHEDULE

COMMUTATION FACTORS

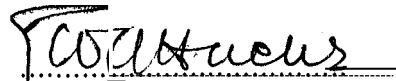
TABLE SHOWING THE LUMP SUM TO BE PAID FOR THE COMMUTATION OF EACH, EI P.A.

<i>Age of Officer</i>	<i>Factor</i>	<i>Age of Officer</i>	<i>Factor</i>
25	17-08	40	1547
26	16-97	41	14-90
27	16-86	42	14,73
28	16-74	43	14,55
29	16-62	44	14.36
30	16-50	45	14-17
31	16,38	46	13-97
32	16-25	47	13-76
33	16-12	48	13-54
34	15-98	49	13-32
35	15-84	50	13-08
36	15-70	51	12-84
37	15-55	52	12-59
38	15-40	53	12-50
39	15-24	54	12-50

INSTRUCTIONS FOR OBTAINING THE APPROPRIATE FACTOR:

- I. Read off from the Table the factors for the officer's age-
 - (a) at his last birthday;
 - (b) at his next birthday.
- II. Divide the difference between I (a) and I (b) by twelve and multiply by the number of completed months of age since the last birthday.
- III. Subtract II from (a). III is the factor required.

Passed, in the National Assembly on the third day of July, 1962.


 Clerk of the National Assembly