CHAPTER 62

An Act to consolidate the Governors' Pensions Acts, 1911 to 1956. [31st July, 1957]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power to grant pensions to Governors.

1.—(1) The Secretary of State may, with the approval of the Treasury, by writing under his hand grant a pension to any Governor eligible for it.

(2) In this Act the expression "Governor" means the Governor (however styled) or administrator of—

(*a*) any part of Her Majesty's dominions other than the British Islands; or

(*b*) a protectorate; or

(*c*) a trust territory designated for the purposes of this section by an order made by the Secretary of State with the consent of the Treasury; or

(*d*) any federation or association of oversea territories;

and references to a Governor include, except where the context otherwise requires, references to a person who has been a Governor.

(3) A Governor is eligible for a pension under this Act if the period of his service as a Governor or, if immediately before his appointment as a Governor he was employed in the home or

oversea civil service, that period added to the period of his service in the home or oversea civil service, amounts to not less than ten years and—

(*a*) he has attained the age of fifty; or

(*b*) he has in the opinion of the Secretary of State become incapable of discharging the duties of his office by reason of some infirmity of mind or body which is likely to be permanent; or

(*c*) his office has been abolished.

(4) Any question whether a person is eligible for a pension under this Act shall be decided by the Secretary of State, and his decision, if confirmed by the Treasury, shall be final.

Amount of pension.

2.—(1) The yearly amount of a pension granted under this Act shall, subject to the limit imposed by the next following section, be as follows, that is to say—

(*a*) where the pension is granted to a Governor who immediately before his appointment as a Governor was employed in the oversea civil service, it shall be an amount determined under subsection (2) or subsection (3) of this section, whichever is the higher;

(*b*) where the pension is granted to any other Governor it shall be an amount determined under subsection (3) of this section.

(2) Where the yearly amount of a Governor's pension falls to be determined under this subsection it shall be calculated—

(*a*) by taking for every completed month of his service in the oversea civil service or as a Governor one six-hundredth of the average yearly amount of his final salary; and

(*b*) by deducting from the total amount ascertained under the foregoing paragraph the yearly amount of any pension granted to him in respect of service in the oversea civil service.

(3) Where the yearly amount of a Governor's pension falls to be determined under this subsection it shall be calculated by taking for every completed month of his service as a Governor one six-hundredth of the average yearly amount of his final salary.

Maximum amount of pension.

3.—(1) The yearly amount of a pension under this Act shall not exceed three thousand pounds.

(2) Subject to the provisions of subsection (3) of section ten of this Act, where a Governor is in receipt of a pension granted in respect of service in the oversea civil service or in respect of

Crown service other than service in the oversea civil service or as a Governor, then—

(*a*) if the yearly amount of that pension is three thousand pounds or more he shall not receive any pension under this Act;

(*b*) if that yearly amount is less than three thousand pounds, the yearly amount of any pension received by him under this Act shall not exceed the difference between the first-mentioned amount and three thousand pounds.

(3) The Treasury may by order specify another sum for the purposes of this section and where another sum is so specified the foregoing provisions of this section shall have effect as if for the references to three thousand pounds there were substituted references to that sum.

(4) Where, in the case of any Governor, three thousand pounds or, as the case may be, the sum specified under the last foregoing subsection, is more than two-thirds of the yearly amount of the highest salary at any time received by him in respect of service in the home or oversea civil service or as a Governor, subsections (1) and (2) of this section shall have effect in his case as if references to two-thirds of that yearly amount were substituted for the references to three thousand pounds or the sum specified under the last foregoing subsection.

Abatement of pension in cases of Government employment.

4. Where a person to whom a pension has been granted under this Act becomes entitled to any salary or emolument (other than a pension) in respect of employment in the armed forces of the Crown or otherwise under the Government of the United Kingdom or any oversea territory, the pension shall be reduced by one half of the amount of the salary or emolument, unless the Secretary of State and the Treasury are satisfied that the employment will not continue for more than a year and the Secretary of State with the approval of the Treasury directs that the reduction shall not be made.

Power to increase pension after re-employment as Governor.

5. Where a person to whom a pension has been granted under this Act serves again as a Governor for such time and at such salary that the pension would have been greater if granted after instead of before that service, the Secretary of State may, with the approval of the Treasury, by writing under his hand increase the yearly amount of the pension to what it would have been if the pension had been granted at the end of that service.

Power to grant pensions in special cases to Governors under age of 50.

6.—(1) Where in any special case it appears to the Secretary of State and the Treasury that it is impracticable to find appropriate employment in the public service for a Governor who would be eligible for a pension under this Act if he had attained the age of fifty, and that it is in the interests of the public service to grant him a pension under this Act, the Secretary of State may

by writing under his hand grant him such a pension notwithstanding that he has not attained that age.

(2) A minute of the Secretary of State, approved by the Treasury, granting a pension by virtue of this section shall set forth the amount of the pension and the reasons for the grant, and shall be laid before Parliament.

Power to commute Governor's pension.

7. In granting a Governor a pension under this Act the Secretary of State may, on the Governor's application and with the approval of the Treasury, commute by the payment of a capital sum calculated in such manner as the Treasury may by order prescribe, part of the pension, not exceeding one-fourth of the yearly amount, which the Governor might have received but for the commutation.

Power to grant allowances under Superannuation Acts in lieu of pension under this Act.

8.—(1) Where a Governor eligible for a pension under this Act was, immediately before his appointment as a Governor, employed in the home or oversea civil service, a superannuation allowance and additional allowance may be granted to him under the Superannuation Acts instead of a pension under this Act, if the yearly amount of the allowances (calculated in the case of the additional allowance in accordance with section thirteen of this Act) is greater than would be the yearly amount of the pension under this Act together with any pension that might by virtue of subsection (1) of section ten of this Act be granted to him under the Superannuation Acts.

(2) The amount of any superannuation allowance and additional allowance granted to a Governor by virtue of this section shall be calculated as if the number of years served by him as a Governor had been served in the home civil service at the salary received by him in that or, as the case may be, the oversea civil service, immediately before his appointment as a Governor.

Gratuity in respect of Governor dying in office.

9.—(1) Where a Governor who, immediately before his appointment as a Governor, was employed in the home or oversea civil service, dies while he is a Governor, the Treasury may grant to his personal representatives a gratuity of such amount, not exceeding four thousand five hundred pounds, as is equal to the average yearly amount of his final salary.

(2) The Treasury may by order specify another sum for the purposes of this section and where another sum is so specified subsection (1) of this section shall have effect as if for the reference to four thousand five hundred pounds there were substituted a reference to that sum.

Power to grant Superannuation Act allowances to Governors receiving pensions under this Act.

10.—(1) Where a Governor to whom a pension has been granted under this Act was before his appointment as a Governor employed in the home civil service the like superannuation allowance and additional allowance (if any) may be granted to him under the Superannuation Acts as if at the completion of that employment he had retired on a medical certificate.

(2) Where a Governor eligible for a pension under this Act becomes employed in service in respect of which a superannuation allowance and additional allowance under the Superannuation Acts cannot, apart from this section, be granted to him but which is of a kind in respect of which such allowances are granted to persons retiring after the requisite number of years then, whether or not his employment was in an established capacity and notwithstanding that he has not completed the requisite number of years' service, a superannuation allowance and additional allowance may on his retirement be granted to him under those Acts but—

(*a*) no more than five years of his service shall be taken into account in computing their amounts; and

(*b*) where his service was less than three years their amounts shall be computed as if the whole of his service were the period specified in subsection (2) of section four of the Superannuation Act, 1935 (which requires such allowances to be computed on the average annual amount of salary and emoluments during the last three years of service); and

(*c*) notwithstanding the payment of the allowances, no contribution shall be collected and no pension granted in respect of his service under Part I or Part II of the Superannuation Act, 1949 (which make provision for pensions to widows and dependants).

(3) Allowances granted by virtue of the last foregoing subsection shall be disregarded for the purposes of subsection (2) of section three of this Act.

Power to grant Superannuation Act allowances to Governors not receiving pensions under this Act.

11. Where a Governor who is not eligible for a pension under this Act becomes employed in the home civil service in an established capacity his service as a Governor may for the purposes of the Superannuation Acts be treated as if it had been passed in the home civil service.

Certain periods to be reckoned as service as a Governor.

12. The Secretary of State may, with the consent of the Treasury, determine under what conditions and to what extent any person shall be deemed for the purposes of this Act to have been serving as a Governor while serving as a provisional Governor, while proceeding to his government, or while absent from his government with the permission of Her Majesty.

Calculation of yearly amount of pension consisting partly or wholly of capital sum.

13. Where part of a pension under this Act or the whole or part of any other pension has been commuted by the payment of a capital sum, the yearly amount of the pension shall be taken to be what it would have been but for the commutation; but the yearly amount of any other capital sum paid on or in respect of retirement shall be taken to be the yearly amount which would actuarially be the equivalent of that sum, having regard to the expectation of life of the person receiving it.

Allocation of part of Governor's pension to spouse or dependant.

14.—(1) The Treasury may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules,—

(*a*) a Governor shall be allowed to surrender, as from the date of his retirement, and

(*b*) a retired Governor under the age of seventy who has married since his retirement shall be allowed to surrender, as from the date of his marriage,

in return for the benfits of the rules, such part of any pension granted or to be granted to him under this Act as, subject to the next following subsection, may be specified in the rules, and for enabling the Treasury to grant either to his spouse, or (unless the surrender was made under paragraph (*b*) of this subsection) to a dependant, a pension of such value as, according to tables to be prepared from time to time by the Government Actuary, is actuarially equivalent, at the date as from which the said part is surrendered, to the value of that part.

(2) The part of a pension surrendered under the foregoing subsection (whether by virtue of paragraph (*a*) or paragraph (*b*) or both) shall not exceed one-third or, where part of the pension is commuted under section seven of this Act, one-third of the remainder.

(3) Any pension under this section for the benefit of a dependant (not being the spouse) of a retired Governor shall be payable in respect of the period, if any, for which the dependant survives him, and any such pension for the benefit of the spouse shall, according as the Governor may, in conformity with the rules under this section, elect, be payable either—

(*a*) in respect of the period, if any, for which the spouse survives him, or

(*b*) in respect both of the period of their joint lives (subsequent to the retirement or marriage), and of the period, if any, for which the spouse survives him,

and the rules may provide that a pension payable thereunder in respect of the periods mentioned in paragraph (*b*) of this subsection shall be paid at one rate in respect of the first of those periods and at a higher rate in respect of the second.

(4) For the purposes of paragraph (*b*) of subsection (2) of section three of this Act any part of a pension surrendered by a Governor in accordance with rules made under this section shall be treated as being received by him.

(5) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annual statement of pensions granted under Act.

15. A statement of all pensions granted under this Act shall be laid annually before Parliament.

Orders.

16.—(1) Any power conferred by this Act to make an order shall be exercisable by statutory instrument and shall include power to vary or revoke a previous order.

(2) An order designating a trust territory for the purposes of section one of this Act may be made so as to have effect from a date earlier than that on which it is made, and any order under that section shall be laid before Parliament.

(3) Any statutory instrument containing an order under section three, seven or nine of this Act shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Interpretation.

17.—(1) In this Act—

"final salary" means salary during the last three years of service (whether as a Governor or in the home or oversea civil service);

"Governor" has the meaning assigned to it by section one of this Act;

"oversea territory" means a territory which is, or is part of, a colony, protectorate, protected state or United Kingdom trust territory;

"pension" includes any superannuation or other retiring allowance, including any navy, army or air-force retired pay, and also any capital sum paid on or in respect of retirement or by way of commutation of a pension payable periodically;

" protectorate " means a British protectorate;

" salary ", in relation to service in the home or oversea civil service, includes emoluments which are taken into account for the purposes of any pension (other than a pension under this Act);

" service in the home civil service " means service in respect of which a pension may be granted under the Superannuation Acts;

" service in the oversea civil service " means service in any office under the Government of any country which is, or was at the time of the service, an oversea territory or a mandated territory, being service qualifying for a pension payable out of public revenue, out of any fund established by the Government of that country, or out of the fund formed under the Oversea Superannuation Scheme;

" the Superannuation Acts " means the Superannuation Acts, 1834 to 1950;

" trust territory " means a territory administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations;

" United Kingdom trust territory " means a trust territory administered by Her Majesty's Government in the United Kingdom;

and references to the Government of an oversea territory include references to a Government constituted for two or more such territories and to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.

(2) References in this Act to pensions granted thereunder do not include pensions granted under section fourteen thereof.

(3) This Act shall be included among the enactments which may be applied by Order in Council under subsection (4) of section three of the Palestine Act, 1948 (which enables service under the Government of Palestine during the mandate to be treated for superannuation purposes as continuing after the relinquishment of the mandate).

Saving, repeal and transitional provisions.

18.—(1) Where the amount of a pension or gratuity granted under this Act to or in respect of a person who was serving as a Governor on the first day of September, nineteen hundred and fifty-five would be less if computed in accordance with section two or, as the case may be, section nine of this Act than

if computed in accordance with the enactments repealed by the Governors' Pensions Act, 1956, it shall be computed in accordance with those enactments notwithstanding their repeal.

(2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This repeal shall not affect any pension or gratuity granted before the commencement of this Act, and any order made or thing done under the enactments repealed by this Act shall, if it could have been made or done under the corresponding provisions of this Act, have effect as if so made or done, and the order under the Pensions (Governors of Dominions, etc.) Act, 1929 extending the provisions of the Pensions (Governors of Dominions, etc.) Act, 1911 to the Tanganyika Territory shall have effect as if it were an order made under section one of this Act designating that territory for the purposes of that section.

(4) The mention of any particular matter in the last foregoing subsection shall not be taken to prejudice the general application to this Act of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).

19. This Act may be cited as the Governors' Pensions Act, 1957. Short title.

SCHEDULE

Section 18.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Geo. 5. c. 24.	The Pensions (Governors of Dominions, etc.) Act, 1911.	The whole Act.
19 & 20 Geo. 5. c. 16.	The Pensions (Governors of Dominions, etc.) Act, 1929.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 25.	The Pensions (Governors of Dominions, etc.) Act, 1936.	The whole Act.
11 & 12 Geo. 6. c. 12.	The Pensions (Governors of Dominions, etc.) Act, 1947.	The whole Act.
12, 13 & 14 Geo. 6. c. 44.	The Superannuation Act, 1949	In section sixty-three, in subsection (2), the words "or of the Pensions (Governors of Dominions, etc.) Acts, 1911 to 1947" and the words "or service as a Governor within the meaning of the last-mentioned Acts".
4 & 5 Eliz. 2. c. 64.	The Governors' Pensions Act, 1956.	The whole Act.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Pensions (Governors of Dominions, etc.) Act, 1911	1 & 2 Geo. 5. c. 24.
Pensions (Governors of Dominions, etc.) Act, 1929	19 & 20 Geo. 5. c. 16.
Superannuation Act, 1935	25 & 26 Geo. 5. c. 23.
Palestine Act, 1948	11 & 12 Geo. 6. c. 27.
Superannuation Act, 1949	12, 13 & 14 Geo. 6. c. 44.
Governors' Pensions Act, 1956...	4 & 5 Eliz. 2. c. 64.

PRINTED BY SIR JOHN ROUGHTON SIMPSON, C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE
Price 8*d.* net
PRINTED IN GREAT BRITAIN

(38932)