(2) The members of the Commission shall comply with any directions given to them under this section or shall cause them to be complied with.

Construction of Nigeria (Constitution) Order in Council, 1954, and Royal Instructions to Governor-General

7. The references in section 180c of the Nigeria (Constitution) Order in Council, 1954, as amended, and clause 7 of the Instructions under Her Majesty's Sign Manual and Signet to the Governor-General bearing date the third day of September, 1954, as amended, to an office of emolument under the Crown shall not include references to the office of member of the Electoral Commission.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order enables the Governor-General of the Federation of Nigeria to make provision for the election of members to a new House of Representatives that it is proposed should hereafter be established for the Federation of Nigeria in accordance with the recommendations of the Nigeria Constitutional Conference held in London in May and June 1957 and permits registration of voters to take place and other preliminary measures to be taken in pursuance of any such provision.

1958 No. 1523

The Nigeria (Retirement Benefits) Order in Council, 1958

Made - - - -	11*th September*, 1958
Laid before Parliament	17*th September*, 1958
Coming into Operation	18*th September*, 1958

At the Court at Balmoral, the 11th day of September, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation and commencement

1.—(1) This Order may be cited as the Nigeria (Retirement Benefits) Order in Council, 1958.

(2) This Order shall come into operation on the eighteenth day of September, 1958.

(a) 53 & 54 Vict. c. 37.

Interpretation

2.—(1) The provisions of section 2 of the Nigeria (Constitution) Order in Council, 1954(**a**), as amended(**b**), shall apply for the purpose of interpreting this Order as they apply for the purpose of interpreting that Order.

(2) The provisions of subsection (4A) of section 2, subsections (2), (3) and (4) of section 89 and subsections (2), (3) and (4) of section 105 of the Nigeria (Constitution) Order in Council, 1954, as amended(**c**), shall apply in relation to this Order as they apply in relation to that Order, and for that purpose references to that Order shall be construed as if they were references to this Order.

Provisions of First Schedule to have effect in relation to public services of Federation and Northern Region

3.—(1) The provisions contained in the First Schedule to this Order shall have effect in relation to the public service of the Federation and the public service of the Northern Region.

(2) An officer in the public service of the Federation or the public service of the Northern Region who retired after the twenty-ninth day of August, 1957, and before the commencement of this Order and who would have been eligible to retire under the First Schedule to this Order if the provisions of that Schedule had been in force at the date of his retirement, may be granted such benefits as could have been granted to him if those provisions had been in force at that date and he had retired thereunder.

Provisions of Second Schedule to have effect in relation to public services of Western and Eastern Regions

4.—(1) The provisions contained in the Second Schedule to this Order shall have effect in relation to the public service of the Western Region and the public service of the Eastern Region.

(2) If any officer in the public service of the Western Region or the public service of the Eastern Region who is not an entitled officer for the purposes of the Second Schedule to this Order is an entitled officer for the purposes of the interim scheme he shall be deemed to be an entitled officer for the purposes of that Schedule.

(3) Where any officer in the public service of the Western Region or the public service of the Eastern Region has before the commencement of this Order in pursuance of the interim scheme applied for or been granted permission to serve in the public service of the Region for any period with rights similar to the special rights for which provision is made in the Second Schedule to this Order, or given notice of his intention to retire from that public service at any time, he shall be deemed to have applied for or been granted permission to serve in that public service for that period with special rights or to have given notice of his intention to retire from that public service at that time, as the case may be, in pursuance of the Second Schedule to this Order.

(**a**) S.I. 1954/1146 (1954 II, p. 2829). (**b**) The relevent amending Orders are S.I. 1957/1530, 1958/429, 1522 (1957 II, p. 3030; 1958 II, pp. 2757, 2822).

(**c**) The relevant amending Orders are S.I. 1957/1530, 1958/429 (1957 II, p. 3030; 1958 II, p. 2757).

(4) Any benefits granted in pursuance of the interim scheme to officers in the public service of the Western Region or the public service of the Eastern Region on their retirement or transfer or to any other person on the death of any such officer shall be deemed to have been granted in pursuance of the Second Schedule to this Order, whether or not those benefits differ from the benefits that may be granted in pursuance of that Schedule :

Provided that where the benefits granted upon the retirement, transfer or death of any officer would have been greater if the provisions of the Second Schedule had been in force at the date of such retirement, transfer or death and they had been granted in pursuance of those provisions, those benefits shall be recalculated and regranted in accordance with those provisions as if those provisions had been in force on that date, and any sums paid or payable to that officer or any other person shall be adjusted accordingly.

(5) For the purposes of this section " the interim scheme " in relation to the public service of the Western Region means the compensation scheme published by the government of that Region on the sixth day of August, 1957, and in relation to the public service of the Eastern Region means the compensation scheme published by the government of that Region on the nineteenth day of August, 1957.

Financial responsibility for additional allowance etc.

5.—(1) Where any additional allowance or additional gratuity is granted under this Order to any officer in the public service of a Region, then—

(*a*) in the case of an officer whose whole service that qualifies for pension has been in Nigeria, the cost of such allowance or gratuity shall be shared by the Federation and each Region in the public service of which that officer has served, so that the Federation shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of the Federation and each such Region shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of that Region ; and

(*b*) in the case of any other officer, such allowance or gratuity shall be paid by the Region in the public service of which the officer is serving at the time when he retires.

(2) For the purposes of this section service in the former public service of Nigeria shall be deemed to be service in the public service of the Federation.

(3) Any sum that is payable under this section by the Federation shall be a charge on the Consolidated Revenue Fund of the Federation and any sum that is so payable by a Region shall be a charge on the Consolidated Revenue Fund of the Region, and every sum so charged shall be statutory expenditure for the purposes of section 154B of the Nigeria (Constitution) Order in Council, 1954, as amended(a).

Application of pensions laws

6.—(1) In this section—

" pensions law " means a law that governs the grant of pensions, gratuities and other like benefits ;

(a) *See* S.I. 1958/429 (Pt. II, p. 2757, of this volume).

" dependants " in relation to any person means the widow, children, dependants and personal representatives of that person.

(2) Subject to the provisions of this Order, any pensions law enacted by any legislature in Nigeria that applied immediately before the commencement of this Order in relation to any person in respect of his service in the former public service of Nigeria, the public service of the Federation or the public service of a Region or in relation to the dependants of any such person in respect of any such service shall continue to apply in relation to that person or to those dependants as the case may be.

(3) Any law enacted by the Federal Legislature may be applied in relation to any person mentioned in subsection (2) of this section in respect of his service in the former public service of Nigeria or the public service of the Federation and in relation to his dependants in respect of any such service instead of the pensions law that applies by virtue of that subsection if the law enacted by the Federal Legislature is not less favourable to that person or his dependants, as the case may be, than that pensions law.

(4) Any law enacted by the Legislature of a Region may be applied in relation to any person mentioned in subsection (2) of this section in respect of his service in the public service of that Region and in relation to the dependants of any such person in respect of any such service instead of the pensions law that applies by virtue of that subsection if the law enacted by the Legislature of the Region is not less favourable to that person or his dependants, as the case may be. than that pensions law.

(5) Subject to the provisions of this Order, any pension, gratuity or other like benefit that may be granted to any person who is appointed to the public service of the Federation or the public service of a Region after the commencement of this Order or to the dependants of any such person shall be governed by the law in force on the date on which that person is first appointed to a pensionable office in that public service or by any law made thereafter that is not less favourable to that person or his dependants, as the case may be, and is applicable in his or their case.

(6) Where any person is entitled to exercise an option whether one of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favourable than the other law or laws.

W. G. Agnew.

Section 3

FIRST SCHEDULE

Retirement Benefits for Certain Officers in the Public Services of the Federation and the Northern Region

Interpretation

1.—(1) In this Schedule, unless the context otherwise requires—

" appropriate law " in relation to an officer in the public service of the Federation or the public service of the Northern Region means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria or the public service of the Federation or the public service of a Region ;

"existing overseas officer" in relation to the public service of the Federation or the public service of the Northern Region means an overseas officer in that public service—

(*a*) who was before the thirtieth day of August, 1957, appointed or selected for appointment as the substantive holder of an office in the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment,

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor-General, in the case of an officer in the public service of the Federation, or with the concurrence of the Governor, in the case of an officer in the public service of the Northern Region, to be an existing overseas officer;

"future overseas officer" in relation to the public service of the Federation or the public service of the Northern Region means an overseas officer in that public service—

(*a*) who was after the twenty-ninth day of August, 1957, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment;

"overseas officer" means an officer in the public service of the Federation or the public service of the Northern Region who is, either individually or as a member of a class, declared by the Governor-General, acting in his discretion, to be an overseas officer;

"pensionable emoluments" in relation to an officer in the public service of the Federation or the public service of the Northern Region means emoluments that may be taken into account for the purpose of computing the pension of that officer under the appropriate law;

"pensionable service" in relation to an officer in the public service of the Federation or the public service of the Northern Region means the aggregate amount of service that may be taken into account for the purpose of computing the pension of that officer under the appropriate law;

"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.

(2) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Federation or the public service of the Northern Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been appointed to be the substantive holder of an office in that public service or as having been selected for appointment as such, as the case may be, on that date, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Federation or the public service of the Northern Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

(6) Any question concerning the interpretation of this Schedule may be referred to and determined by a Secretary of State, whose decision thereon shall be final.

Existing and certain future overseas officers may retire at any time

2.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer in the public service of the Federation may, after giving four months' notice in writing to the Governor-General or such shorter notice as the Governor-General, acting in his discretion, may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer in the public service of the Federation may, after giving six months' notice to the Governor-General or such shorter notice as the Governor-General, acting in his discretion, may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation ;

(*b*) in the public service of one or more Regions ; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions:

Provided that nothing in this sub-paragraph shall prevent an officer from retiring without having served the three years immediately before his retirement in the manner specified as aforesaid if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Governor-General, acting in his discretion, withdraw the notice at any time before that date.

(4) No officer in the public service of the Federation shall retire under this paragraph without the permission of the Governor-General, acting in his discretion:

Provided that the Governor-General shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) The foregoing provisions of this paragraph shall apply in relation to officers in the public service of the Northern Region as they apply in relation to officers in the public service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of that Region.

Pensions etc. for existing and future overseas officers

3.—(1) If an existing overseas officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him; or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the annual amount of that pension multiplied by twelve and one half ; or

(*c*) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region.

(2) If a future overseas officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(3) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

(*a*) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension ; and

(*b*) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(4) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

Additional benefits

4. If an existing overseas officer in the public service of the Federation or an existing overseas officer in the public service of the Northern Region who has been transferred to that public service under section 185 of the Nigeria (Constitution) Order in Council, 1954, retires under paragraph 2 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 3 of this Schedule either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service:

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 3 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that law if he had continued to hold the office held by him on the date of his retirement until he had reached the age of fifty-five years, or, in the case of a judge of the High Court of Lagos or the High Court of the Northern Region, sixty-two years, or, in the case of a judge of the Federal Supreme Court, sixty-five years, and had then retired, having been granted all increments of salary for which he would have been eligible by that date ; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied by twelve and one half ; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service:

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had been granted an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph.

Abolition of office, etc.

5.—(1) Where an existing overseas officer in the public service of the Federation retires in consequence of the abolition of his office or for the purpose 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, if he gives notice in writing that he so desires to the Governor-General within six months after the date of his retirement or such longer period after that date as the Governor-General, acting in his discretion, may allow, be deemed to have retired under sub-paragraph (1) of paragraph 2 of this Schedule:

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any additional benefits for which he may be eligible under the appropriate law by virtue of his having retired in consequence of the abolition of his office or for the purpose of facilitating such improvements.

(2) The foregoing provisions of this paragraph shall apply in relation to existing overseas officers in the public service of the Northern Region as they apply in relation to existing overseas officers in the public service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of that Region.

Exercise of options

6.—(1) Any option exercisable by an officer in the public service of the Federation for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor-General, acting in his discretion, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(*b*) shall be irrevocable after the end of the period within which it must be exercised;

(*c*) shall be exercised by notice in writing to the Governor-General; and

(*d*) shall be deemed to have been exercised on the date on which such notice is received.

(2) The foregoing provisions of this paragraph shall apply in relation to existing overseas officers in the public service of the Northern Region as they apply in relation to existing overseas officers in the public service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of that Region.

Application of appropriate law

7. Where an officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule, the provisions of the appropriate law—

(*a*) shall, subject to the provisions of this Order, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

8. Any gratuity granted under paragraph 3 or paragraph 4 of this Schedule shall be exempt from tax under any law enacted by the Legislature of the Federation, any Region or the Southern Cameroons relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

9.—(1) If an officer in the public service of the Federation or the public service of the Northern Region who is not an overseas officer can show to the satisfaction of the appropriate authority that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the foregoing provisions of this Schedule (other than sub-paragraph (2) of paragraph 2 and sub-paragraph (2) of paragraph 3) shall apply in relation to him as they apply in relation to an overseas officer.

(2) In this paragraph "the appropriate authority" in relation to an officer in the public service of the Federation or the public service of the Northern Region means—

(*a*) in the case of an officer who was selected for appointment to the public service by a Secretary of State or whose appointment to an office in the public service was approved by a Secretary of State, a Secretary of State;

(*b*) in the case of any other officer in the public service of the Federation, the Governor-General, acting in his discretion; and

(*c*) in the case of any other officer in the public service of the Northern Region, the Governor of that Region, acting in his discretion.

Section 4

SECOND SCHEDULE

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICES OF THE WESTERN REGION AND THE EASTERN REGION

Interpretation

1.—(1) In this Schedule, unless the context otherwise requires—

"appropriate law" in relation to an officer in the public service of the Western Region or the public service of the Eastern Region means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region;

"entitled officer" in relation to the public service of the Western Region or the public service of the Eastern Region means an existing overseas officer in that public service—

(*a*) who was before the first day of October, 1956, appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law;

(*b*) the whole of whose pensionable service for the purposes of the appropriate law since he was appointed as such has been in that public service; and

(*c*) who has been, since the first day of October, 1954, until he was appointed as such, the substantive holder of an office in the public service of the Federation or the public service of another Region, being a pensionable office for the purposes of the appropriate law,

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor, to be an entitled officer;

"existing overseas officer" in relation to the public service of the Western Region or the public service of the Eastern Region means an overseas officer in that public service—

(*a*) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment,

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor, to be an existing overseas officer;

"future overseas officer" in relation to the public service of the Western Region or the public service of the Eastern Region means an overseas officer in that public service—

(*a*) who was after the first day of October, 1954, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment;

"operative period" in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region means the period for which he is permitted to serve in that public service with special rights;

"overseas officer" means an officer in the public service of the Western Region or the public service of the Eastern Region who is, either individually or as a member of a class, declared by the Governor to be an overseas officer;

"pensionable emoluments" in relation to an officer means emoluments that may be taken into account in computing the pension of that officer under the appropriate law;

"pensionable service" means in relation to an officer in the public service of the Western Region or the public service of the Eastern Region the aggregate amount of service that may be taken into account for the purpose of computing the pension of that officer under the appropriate law;

"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.

(2) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Western Region or the public service of the Eastern Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been appointed to be the substantive holder of an office in that public service or as having been selected for appointment as such, as the case may be, on that date, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Western Region or the public service of the Eastern Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

(6) Any question concerning the interpretation of this Schedule may be referred to and determined by a Secretary of State, whose decision thereon shall be final.

Permission to serve with special rights

2.—(1) Any entitled officer in the public service of the Western Region or the public service of the Eastern Region may apply to the Governor for permission to serve with special rights in that public service for such period as the officer may desire.

(2) The Governor, acting on the recommendation of the Public Service Commission of the Region, may grant to any entitled officer in the public service of the Western Region or the public service of the Eastern Region who applies for permission to serve with special rights in that public service for any period, permission to serve with such rights for that period, or, if the officer consents, for a lesser period.

Variation of operative period

3.—(1) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region has been granted permission to serve with special rights in that public service for any period the Governor, acting on the recommendation of the Public Service Commission of the Region, may vary that period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

Public Service Commission to consult

4.—(1) The Public Service Commission of the Western Region or the Eastern Region shall—

(*a*) consult from time to time with the appropriate authority as to the classes of officers in the public service of the Region to whom permission to serve with special rights in that public service should be granted;

(*b*) consult with the appropriate authority before recommending any variation of an operative period in accordance with paragraph 3 of this Schedule.

(2) For the purposes of this paragraph the appropriate authority shall be—

(*a*) in relation to the Western Region, the Director of Recruitment of the Region;

(*b*) in relation to the Eastern Region, the Nigerianization Committee established by the government of the Region or such other officer or authority of the Region as the Governor may designate.

Existing and certain future overseas officers may retire at any time

5.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region may, after giving four months' notice in writing to the Governor or such shorter notice as the Governor, acting in his discretion, may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer in the public service of the Western Region or

the public service of the Eastern Region may, after giving six months' notice to the Governor or such shorter notice as the Governor, acting in his discretion, may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation ;

(*b*) in the public service of one or more Regions ; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions :

Provided that nothing in this sub-paragraph shall prevent an officer from retiring without having served the three years immediately before his retirement in the manner specified as aforesaid if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Governor, acting on the recommendation of the Public Service Commission of the Region, withdraw the notice at any time before that date.

(4) No officer in the public service of the Western Region or the public service of the Eastern Region shall retire under this paragraph without the permission of the Governor, acting in his discretion :

Provided that the Governor shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

Pensions etc. for existing overseas officers

6.—(1) If an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him : or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement ; and

(ii) in any other case, by twelve and one half ; or

(*c*) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region ; or

(*d*) in the case of an entitled officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the annual amount of the pension multiplied by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement ; or

(*e*) in the case of an entitled officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to the sum of two hundred and fifty pounds multiplied by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement.

(2) If a future overseas officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(3) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

(*a*) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and

(*b*) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(4) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

Benefits for existing overseas officers other than entitled officers

7. If an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region who has been transferred to that public service under section 185 of the Nigeria (Constitution) Order in Council, 1954, and who is not an entitled officer retires under paragraph 5 of this Schedule he may be granted additional benefits in addition to the benefits that may be granted under paragraph 6 of this Schedule.

Benefits for entitled officers without special rights

8. If an entitled officer in the public service of the Western Region or the public service of the Eastern Region (not being an officer who has been granted permission to serve with special rights) retires under paragraph 5 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(*a*) additional benefits; or

(*b*) compensation to be calculated as at the date of his retirement.

Benefit for entitled officers with special rights

9.—(1) If an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights—

(*a*) retires under paragraph 5 of this Schedule at the end of the operative period or upon such date within six months before or after the end of that period as the Governor, acting on the recommendation of the Public Service Commission of the Region, may allow; or

(*b*) retires under paragraph 5 of this Schedule before the end of the operative period on the ground of injury or ill-health,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) If an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights retires under paragraph 5 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be

granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits; or

(ii) compensation to be calculated as at the date of his retirement.

Benefits payable on death of entitled officer

10.—(1) If an entitled officer dies while he is a member of the public service of the Western Region or the public service of the Eastern Region, the Governor, acting in his discretion, may direct that there shall be paid to the personal representatives of that officer or, if he shall think fit, to any member of the family of that officer either—

(*a*) a sum equal to the compensation which would have been granted to the officer under paragraph 8 or paragraph 9 of this Schedule had he retired under paragraph 5 of this Schedule on the day of his death; or

(*b*) a sum equal to the gratuity that would have been payable under the appropriate law,

whichever is the greater:

Provided that the Governor, acting in his discretion, may direct that such sum shall be divided among any two or more of the members of the family of the officer in such proportions as he may think fit.

(2) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights—

(*a*) dies within the operative period; or

(*b*) in the case of an officer who has been granted permission by the Governor under sub-paragraph (1) of paragraph 9 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous.

(3) For the purposes of this paragraph "member of the family" in relation to an entitled officer means his wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional benefits

11. Where an officer in the public service of the Western Region or the public service of the Eastern Region is granted additional benefits under paragraph 7, paragraph 8 or paragraph 9 of this Schedule he shall receive at his option either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service:

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 6 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had reached the age of fifty-five years, or, in the case of a judge of the High Court of the Western Region or the High Court of the Eastern Region, sixty-two years, and had then retired having been granted all increments of salary for which he would have been eligible by that date; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement; and

(ii) in any other case, by twelve and one half; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service:

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph.

Calculation of compensation

12.—(1) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region is granted compensation to be calculated at any date under paragraph 8 or paragraph 9 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments at that date by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The factor relevant to an entitled officer shall be the factor in the appropriate Table opposite to the age of the officer on his birthday immediately preceding the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date.

(3) (*a*) The appropriate table for entitled officers in the public service of the Western Region or the public service of the Eastern Region other than judges of the High Court of the Region shall be Table II of the Annex to this Schedule.

(*b*) The appropriate table for entitled officers in the public service of the Western Region or the public service of the Eastern Region who are judges of the High Court of the Region shall be Table III of the Annex to this Schedule.

(4) For the purposes of this paragraph—

"annual emoluments" means in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region the annual pensionable emoluments attaching to the office held by that officer at the date of his retirement:

Provided that in relation to an officer who was transferred after the seventh day of August, 1957, to an office carrying pensionable emoluments higher than those attaching at the date of his transfer therefrom to the office from which he was transferred "annual emoluments" means either—

(*a*) one third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date of his retirement; or

(*b*) the annual pensionable emoluments attaching at the date of his transfer therefrom to the office that he was holding on the seventh day of August, 1957,

whichever is the greater;

"pensionable service" means in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region the aggregate amount of service that may be counted in full for the purpose of computing the pension of that officer under the appropriate law.

Special benefits for transferred officers

13.—(1) An entitled officer in the public service of the Western Region or the public service of the Eastern Region who is transferred from an office in the public service of the Region to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law carrying at the date of his transfer annual pensionable emoluments that are less than the annual pensionable emoluments attaching at that date to the office from which he was transferred may be granted—

(*a*) a sum equal to five times the difference between the annual pensionable emoluments attaching to the respective offices at that date; or

(*b*) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 5 of this Schedule at that date,

whichever is the less.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Abolition of office etc.

14.—(1) This paragraph applies to any officer in the public service of the Western Region or the public service of the Eastern Region—

(*a*) who retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the part of the public service to which he belongs by which greater economy or efficiency may be effected; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(*a*) such additional benefits as may be granted to him under the appropriate law; or

(*b*) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and 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 until he had reached the age of fifty-five years or, in the case of a judge of the High Court of the Region, sixty-two years and had then retired, having been granted all increments of salary for which he would have been eligible by that date; or

(*c*) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(*a*) such benefits as may be granted to him under the appropriate law; or

(*b*) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service ; or

(*c*) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required him to have been in qualifying service for any period to render him eligible for the grant of a pension ; or

(*d*) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement—

(*a*) an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region ; or

(*b*) a future overseas officer in the public service of the Eastern Region who was appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law, before the eighth day of August, 1957,

gives notice in writing that he so desires to the Governor within six months of the date of his retirement or within such longer period after that date as the Governor, acting in his discretion, may allow, he shall be deemed to have retired under paragraph 5 of this Schedule and the provisions of this Schedule shall apply accordingly, and, in the case of an officer in the public service of the Eastern Region who is not an entitled officer, he shall for that purpose be deemed to be an entitled officer :

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

Exercise of options

15. Any option exercisable by an officer in the public service of the Western Region or the public service of the Eastern Region for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor, acting in his discretion, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option ;

(*b*) shall be irrevocable after the end of the period within which it must be exercised ;

(*c*) shall be exercised by notice in writing to the Governor ; and

(*d*) shall be deemed to have been exercised on the date on which such notice is received.

Application of appropriate law

16. Where any officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule, the provisions of the appropriate law—

(*a*) shall, subject to the provisions of this Order, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law ; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

17. Any sum granted by way of compensation under paragraph 7, paragraph 8 or paragraph 9 of this Schedule, any sum granted under paragraph 10 of this Schedule, any gratuity granted under paragraph 6, paragraph 11 or paragraph 14 of this Schedule and any sum paid upon the transfer of an officer under paragraph 13 of this Schedule shall be exempt from tax under any law enacted by the Legislature of the Federation, any Region or the Southern Cameroons relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

18.—(1) This paragraph applies to an officer in the public service of the Western Region or the public service of the Eastern Region—

(*a*) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who is not an overseas officer; and

(*c*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment,

and to any other officer in that public service, not being an overseas officer, to whom this section is declared by the appropriate authority, with the concurrence of the Governor, to be applicable.

(2) If an officer to whom this section applies can shew to the satisfaction of the appropriate authority that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

(3) In this paragraph "the appropriate authority" in relation to an officer in the public service of the Western Region or the public service of the Eastern Region means—

(*a*) in the case of an officer who was selected for or offered appointment to the public service of the Region by a Secretary of State or whose appointment to an office in the public service of the Region was approved by a Secretary of State, a Secretary of State;

(*b*) in the case of an officer not falling within the foregoing provisions of this sub-paragraph who holds an office to which section 180E of the Nigeria (Constitution) Order in Council, 1954, as amended(a), applies, the Governor acting on the recommendation of the Judicial Service Commission of the Region; and

(*c*) in any other case, the Governor acting on the recommendation of the Public Service Commission of the Region.

(a) *See* S.I. 1958/429, 1522 (Pt. II, pp. 2757, 2822, of this volume).

ANNEX TO THE SECOND SCHEDULE

TABLE I

Paragraphs 6 and 11

Age of officer	*Factor*	*Age of officer*	*Factor*
29 and under	16·50	41	14·82
30	16·44	42	14·64
31	16·31	43	14·46
32	16·18	44	14·26
33	16·05	45	14·07
34	15·91	46	13·86
35	15·77	47	13·65
36	15·62	48	13·43
37	15·47	49	13·20
38	15·32	50	12·96
39	15·16	51	12·72
40	14·99	52 and over	12·50

TABLE II

Paragraph 12

Age of officer	Factor where length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
25	·26							
26	·27	·35						
27	·30	·40	·50					
28	·34	·46	·58	·69				
29	·40	·54	·68	·81	·94			
30	·47	·62	·78	·94	1·09	1·25		
31	·54	·72	·90	1·08	1·26	1·44	1·62	
32	·63	·84	1·05	1·26	1·47	1·68	1·89	2·10
33	·74	·98	1·22	1·47	1·72	1·96	2·20	2·45
34	·85	1·14	1·42	1·70	1·99	2·27	2·56	2·84
35	·97	1·29	1·61	1·93	2·25	2·58	2·90	3·22
36	1·07	1·42	1·78	2·14	2·49	2·85	3·20	3·56
37	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
38	1·21	1·61	2·02	2·42	2·82	3·22	3·63	4·03
39	1·23	1·64	2·06	2·47	2·88	3·29	3·70	4·11
40	1·24	1·65	2·06	2·48	2·89	3·30	3·72	4·13
41	1·22	1·62	2·02	2·43	2·84	3·24	3·64	4·05
42	1·17	1·56	1·95	2·34	2·73	3·12	3·51	3·90
43	1·11	1·48	1·85	2·22	2·59	2·96	3·33	3·70
44	1·05	1·40	1·74	2·09	2·44	2·79	3·14	3·49
45	·98	1·30	1·62	1·95	2·28	2·60	2·92	3·25
46	·90	1·20	1·50	1·81	2·11	2·41	2·71	3·01
47	·83	1·11	1·38	1·66	1·94	2·22	2·49	2·77
48	·75	1·00	1·25	1·50	1·75	2·00	2·25	2·50
49	·66	·88	1·10	1·33	1·55	1·77	1·99	2·21
50	·57	·76	·95	1·14	1·33	1·52	1·71	1·90
51	·47	·63	·79	·95	1·11	1·26	1·42	1·58
52	·38	·50	·62	·75	·88	1·00	1·12	1·25
53	·22	·30	·38	·45	·52	·60	·68	·75
54	·08	·10	·12	·15	·18	·20	·22	·25
55 or more	nil	nil	nil	nil	nil	nil	nil	nil

Paragraph 12

TABLE III

Age of officer	*Factor where length of service is 10 years or more*	*Age of officer*	*Factor where length of service is 10 years or more*
37	2·82	50	3·31
38	3·22	51	3·11
39	3·56	52	2·91
		53	2·71
40	3·83	54	2·51
41	4·01		
42	4·10	55	2·31
43	4·12	56	2·11
44	4·07	57	1·88
		58	1·58
45	3·97	59	1·25
46	3·85		
47	3·73	60	0·75
48	3·61	61	0·25
49	3·47	62 or more ...	Nil

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for special retirement benefits for officers in the public services of the Western and Eastern Regions of Nigeria in accordance with the recommendations of the Nigeria Constitutional Conference held in London in May and June, 1957, and makes fresh provision for the retirement benefits of officers in the public services of the Federation of Nigeria and the Northern Region of Nigeria.

1958 No. 1259

The Sierra Leone (Constitution) Order in Council, 1958

Made - - - -	*30th July*, 1958
Laid before Parliament	*7th August*, 1958
Coming into Operation	*14th August*, 1958

At the Court at Buckingham Palace, the 30th day of July, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty

(a) 53 & 54 Vict. c. 37.