1962 No. 1085

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The West Indies (Retirement and Compensation) Order in Council 1962

Made - - - -	23*rd May* 1962
Laid before Parliament	29*th May* 1962
Coming into Operation	1*st June* 1962

At the Court at Buckingham Palace, the 23rd day of May 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 3 of the West Indies Act 1962(a) and all other powers enabling Her in that behalf, 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 West Indies (Retirement and Compensation) Order in Council 1962.

(2) This Order shall come into operation on the 1st June 1962.

Interpretation.

2. The Interpretation Act 1889(b) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

Application of Schedule.

3. The provisions contained in the Schedule to this Order shall have effect in relation to officers in the service of the Commissioner appointed under article 4 of the West Indies (Dissolution and Interim Commissioner) Order in Council 1962(c) who immediately before commencing such service were in the public service of the Federation of The West Indies, and to the persons holding the office of judge of the British Caribbean Court of Appeal and the registrars, officers and servants of that Court, being persons who were immediately before their appointments to those offices—

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

(*b*) officers in the service of the Commissioner having been transferred thereto from the public service of the Federation,

(a) 10 & 11 Eliz. 2. c. 19. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1962/1084 (1962 II, p. 1220).

as if the judges, registrars, officers and servants of that Court were officers in the service of the Commissioner and their offices in the Court were offices in the service of the Commissioner:

Provided that the Commissioner shall not give any notification under paragraph 4 of the Schedule to this Order to any person who holds the office of a judge of that Court without the approval of a Secretary of State.

W. G. Agnew.

THE SCHEDULE

Section 3

Scheme for the retirement of certain officers who were immediately before the 31st May 1962 in the public service of the Federation of The West Indies and for the payment of compensation and retiring benefits to such officers.

PART I—GENERAL

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

"appropriate law" in relation to any person in the service of the Commissioner means the law (however styled) that governs the grant of pensions, gratuities and other like benefits in respect of the service of that person in the service of the Commissioner;

"Commissioner" means the Commissioner appointed under article 4 of the West Indies (Dissolution and Interim Commissioner) Order in Council 1962;

"the Constitution of The West Indies" means the Constitution contained in the Annex to the West Indies (Federation) Order in Council 1957(a);

"the Federation" means the Federation of The West Indies established by the West Indies (Federation) Order in Council 1957;

"officer" means a person who is in the service of the Commissioner and who, immediately before commencing such service, was the substantive holder of a pensionable office in the public service of the Federation;

"operative date" means the 1st June 1962;

"overseas officer" means an officer who is a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary or who was on the operative date a designated officer for the purposes of the Overseas Service (The West Indies) Agreement 1962;

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

"pensionable service" means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an 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 specific term under contract, or on secondment from other public service;

(a) S.I. 1957/1364 (1957 I, p. 202).

"Territory" means each of the colonies mentioned in article 1 of the Constitution of The West Indies;

"Tribunal" means the Tribunal established under paragraph 2 of this Schedule.

(2) References in this Schedule to any Act of the Legislature of the Federation or to any regulations made thereunder are references to that Act or those regulations as modified by or under the provisions of the West Indies (Dissolution and Interim Commissioner) Order in Council 1962.

(3) Expressions used in this Schedule shall, unless a contrary intention appears, have the meanings respectively assigned to them under the appropriate law.

Appeals Tribunal.

2.—(1) For the purposes of this Schedule, the Secretary of State shall appoint a Tribunal which shall consist of a Chairman and three other members selected in accordance with the provisions of sub-paragraphs (2) and (3) of this paragraph.

(2) No person shall be qualified to be appointed as a member of the Tribunal if he is a member of the Legislature of any Territory or if he holds or is acting in any public office.

(3) (*a*) Two members of the Tribunal shall be selected from a list of persons to which the Governor of each Territory may nominate one person.

(*b*) One member of the Tribunal shall be selected from a list of three persons submitted by the Federal Public Service Association of The West Indies.

(4) (*a*) If any member of the Tribunal is temporarily unable to perform his functions the Secretary of State may appoint a person who is qualified for appointment to act as a member of the Tribunal during such period as he shall fix.

(*b*) If the member who is temporarily unable to perform his functions was selected in accordance with sub-paragraph (3) of this paragraph, the person appointed to act during his incapacity shall be selected from the list referred to in sub-paragraph (3) (*a*) or sub-paragraph (3) (*b*) of this paragraph as the case may require.

(5) The Tribunal shall have and exercise such duties and powers as are conferred on it by or under this Schedule.

(6) All questions decided by the Tribunal shall be decided by a majority of the votes of all the members and in the event of an equality of votes, the Chairman shall have and exercise a casting vote.

(7) The members of the Tribunal shall receive such remuneration and allowances as the Commissioner shall fix.

(8) For the purposes of this paragraph—

"Governor" in relation to Territories other than Barbardos, Jamaica and Trinidad and Tobago, means the Administrator of the Territory;

"public office" means an office in the service of the Commissioner or in the service of the Crown in respect of the Government of a Territory, but does not include office as a member of a Public Service Commission, a Judicial Service Commission, a Judicial and Legal Service Commission or a Police Service Commission of a Territory or any body with like functions established for a Territory.

PART II—PENSIONABLE OFFICERS

Special definitions.

3. In this Part of this Schedule—

"an officer's former office" means the office in the public service of the Federation of which he was the substantive holder immediately before the operative date;

"redundancy date" means, in relation to an officer, the date notified to him by the Commissioner pursuant to paragraph 4 of this Schedule and where such date has been varied, the date last notified by the Commissioner.

Redundancy date.

4.—(1) The Commissioner shall, as soon as practicable, notify each officer in writing of the date beyond which his services will no longer be required by the Commissioner.

(2) In the exercise of his power under sub-paragraph (1) of this paragraph the Commissioner may, at any time before the redundancy date fixed in relation to an officer, vary such date.

Date of retirement.

5.—(1) Subject to the provisions of this Part of this Schedule, every officer shall, provided that he has not previously ceased to be in the service of the Commissioner, retire from the service of the Commissioner on the expiry of such period of leave as is granted to him under the next following sub-paragraph of this paragraph.

(2) An officer shall, upon his redundancy date, be granted the full period of vacation leave for which he is then eligible and, if such period of vacation leave is less than three months, he shall be granted such additional period of leave as will ensure that he is able to proceed on that date on three months' leave on full pensionable emoluments.

Special benefits.

6.—(1) Every officer whose retirement has taken place pursuant to the last foregoing paragraph may, subject to the provisions of this Part of this Schedule, be granted—

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

(*b*) a reduced pension equal to three-quarters or any greater fraction of that pension together with a gratuity equal to the amount by which that pension is reduced multiplied by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of the officer at the date of his retirement; and

(*c*) at his option, exercisable not later than three months after his redundancy date, either—

(i) an additional pension or a reduced additional pension together with a gratuity calculated in accordance with the provisions of sub-paragraph (4) of this paragraph; or

(ii) compensation assessed in accordance with the provisions of the Annex to this Schedule:

Provided that the Commissioner may, in respect of any officer, extend the period within which the option under this sub-paragraph may be exercised.

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

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

(*b*) 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;

(*c*) that, being an officer on probation, he has not been confirmed in a pensionable office.

(3) Where an officer who retires from the service of the Commissioner pursuant to paragraph 5 of this Schedule is granted by any government or authority that is a Scheduled Administration for the purposes of the appropriate law both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity that may be granted to him under sub-paragraph (1) (*b*) of this paragraph) a gratuity equal to the amount (if any) by which the amount produced by—

(*a*) subtracting the annual amount of the pension granted to him by the Scheduled Administration from the annual amount of the pension that would have been granted to him by that Administration had he not elected to receive the gratuity granted to him by the Scheduled Administration; and

(*b*) by multiplying the resulting amount by the appropriate factor set out in Table I of the Annex to this Schedule,

exceeds the amount of the gratuity granted to him by the Scheduled Administration.

(4) (*a*) An additional pension payable under the provisions of sub-paragraph (1) (*c*) (i) of this paragraph shall be calculated at the annual rate of one one-hundred and eightieth part of the officer's annual pensionable emoluments for each completed period of one year of pensionable service, and the officer may be granted—

(i) that additional pension; or

(ii) a reduced additional pension equal to three-quarters or any greater fraction of that additional pension together with a gratuity equal to the amount by which that additional pension is reduced multiplied by the factor set out in Table I of the Annex to this Schedule appropriate to the age of the officer at the date of his retirement:

Provided that—

(i) the additional pension shall not exceed thirty one-hundred and eightieth such parts; and

(ii) the additional pension together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him immediately before the operative date, and retired on reaching the age of sixty years, having received all the increments for which he would have been eligible by that date.

(*b*) Where the officer's total period of pensionable service includes a fraction of a year, the additional pension payable in respect thereof shall be calculated pro rata in respect of the completed months of service comprised in the fraction.

(5) Any award made pursuant to this paragraph shall be in lieu of any other award which could have been made pursuant to the provisions of the appropriate law.

Officers offered alternative appointments.

7.—(1) The provisions of paragraph 6 of this Schedule shall not apply to an officer, other than an overseas officer, who is offered, within two months after his redundancy date, an alternative appointment on transfer to other public service, which is for the purposes of this Schedule deemed to be either a comparable or a reasonable alternative appointment.

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(2) Subject to the provisions of sub-paragraph (3) of this paragraph, an officer who declines an offer of a comparable or a reasonable alternative appointment in other public service as aforesaid, shall, upon his retirement from the service of the Commissioner, be deemed to have retired as a consequence of the abolition of his office:

Provided that in lieu of any additional pension which he may be granted under the appropriate law upon his retirement on abolition of office, he may be granted an additional pension calculated in accordance with the provisions of paragraph 6 (4) of this Schedule.

(3) An officer who declines an offer of a reasonable alternative appointment may, in lieu of the additional pension he may be granted under the proviso to the last foregoing sub-paragraph, elect at his option (exercisable not later than three months after his redundancy date) to receive the compensation to which he would have been entitled under paragraph 10 (1) of this Schedule if he had accepted the offer, and had been transferred at the date of his retirement accordingly.

Comparable or reasonable alternative appointments.

8.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, an alternative appointment in other public service shall, for the purposes of this Schedule, be deemed to be—

(*a*) a comparable alternative appointment, if—

(i) the annual pensionable emoluments of the appointment amount to not less than ninety-five per cent. of the officer's last drawn pensionable emoluments in the service of the Commissioner; or

(ii) in the case of an officer whose former office is of a grade specified in paragraph 10 (3) (*b*) of this Schedule, the appointment is to an office of the same grade in the public service of either Jamaica or Trinidad and Tobago;

(*b*) a reasonable alternative appointment, if, not being a comparable alternative appointment, the annual pensionable emoluments of the appointment amount to not less than seventy-five per cent. of the officer's last drawn pensionable emoluments in the service of the Commissioner.

(2) An alternative appointment shall not, for the purposes of this Schedule, be deemed to be either a comparable or a reasonable alternative appointment unless—

(*a*) the duties of the office are generally of a similar nature to those which the officer was liable to perform in his former office; and

(*b*) the appointment is to an office in the public service of the officer's home Territory; and

(*c*) in the case of an officer who was appointed to the public service of the Federation on transfer from the public service of one of the Territories, the appointment is to an office not lower in rank than the substantive office which he held immediately prior to his transfer to the public service of the Federation.

(3) (*a*) For the purposes of this paragraph, the public service of an officer's home Territory means the public service of the Territory in which he was born or was domiciled immediately before the operative date and includes—

(i) in relation to an officer born or domiciled immediately before the operative date in Barbados or in any Leeward or Windward Islands Territory, service under the Government of any Federation that may be established comprising those Territories; and

(ii) in relation to an officer born or domiciled immediately before the operative date in any Leeward or Windward Islands Territory and whose pensionable service prior to his transfer to the public service of the Federation included service in more than one of these Territories, the public service of any one of those Territories.

(*b*) In this paragraph, references to a Leeward or Windward Islands Territory are references to any one of the Territories of Antigua, Dominica, Grenada, Montserrat, Saint Christopher Nevis and Anguilla, Saint Lucia or Saint Vincent.

Commissioner's powers regarding alternative appointments.

9. Subject to the provisions of paragraph 25 of this Schedule, any dispute that may arise as to whether an alternative appointment in other public service that is offered to an officer is, for the purposes of this Schedule, either a comparable or a reasonable alternative appointment, shall be decided by the Commissioner.

Transferred officers.

10.—(1) Where an officer who has been notified of his redundancy date accepts a transfer to the public service of his home Territory and the amount of his comparable emoluments exceeds the amount of the annual pensionable emoluments payable to him immediately after the transfer (being emoluments that may be taken into account for the purposes of his pension under the law relating to his service in that other public service) he shall be paid compensation assessed in accordance with the provisions of the Annex to this Schedule or the amount he would receive if he were entitled to compensation under paragraph 6 (1) (*c*) (ii) of this Schedule, having retired on the date of his transfer, whichever is the less:

Provided that no person whose former office was an office in any of the grades specified in sub-paragraph (3) of this paragraph and who is transferred to an office of the same grade in the public service of either Jamaica or Tinidad and Tobago shall be entitled to a gratuity under this paragraph.

(2) Where an officer who has been notified of his redundancy date accepts a transfer to the public service of a Territory other than his home Territory and the amount of his last drawn pensionable emoluments in the service of the Commissioner exceeds the amount of the annual pensionable emoluments payable to him immediately after the transfer (being emoluments that may be taken into account for the purposes of his pension under the law or regulations relating to his service in that other public service) he shall be paid compensation assessed in accordance with the provisions of the Annex to this Schedule or the amount he would receive if he were entitled to compensation under paragraph 6 (1) (*c*) (ii) of this Schedule, having retired on the date of his transfer, whichever is the less.

(3) (*a*) For the purposes of this paragraph—

(i) "comparable emoluments" means ninety-five per cent. of the officer's last drawn pensionable emoluments in the service of the Commissioner;

(ii) "the public service of his home Territory" has the same meaning as "the public service of an officer's home Territory" has in paragraph 8 of this Schedule.

(*b*) The grades referred to in sub-paragraph (1) of this paragraph are Permanent Secretary, Senior Assistant Secretary and Assistant Secretary.

Death of an officer while in service of Commissioner.

11.—(1) Where an officer (not being an officer other than an overseas officer who has declined a comparable alternative appointment) dies while he is in the service of the Commissioner, there shall be paid to his legal personal representatives or such of his dependants as the Commissioner may think fit an amount equal to the gratuity that would have been payable under the appropriate law; and

(*a*) in the case of an officer who has declined a reasonable alternative appointment, an amount equal to the compensation which he might have elected to receive under paragraph 7 (3) of this Schedule had he retired on the date of his death; or

(*b*) in any other case, an amount equal to the compensation to which the officer would have been entitled under paragraph 6 (1) (*c*) (ii) of this Schedule had he retired on the date of his death.

(2) Any amount paid under this paragraph shall be in lieu of any award that could have been made pursuant to the appropriate law.

Refund of compensation on taking up pensionable employment.

12. If an officer who has been paid an amount of compensation under paragraph 6 (1) (*c*) (ii) of this Schedule becomes, within two years of the date of his retirement from the services of the Commissioner, the substantive holder of a pensionable office in the service of a Territory, he shall repay to the Commissioner the amount of such compensation and, upon such repayment, shall be granted at his option—

(*a*) with effect from the date of his retirement such additional pension or such reduced additional pension together with a gratuity as could have been granted to him under paragraph 6 (1) (*c*) (i) of this Schedule

had he elected, in pursuance of the option conferred by sub-paragraph (1) (*c*) of that paragraph, to receive an additional pension or a reduced additional pension together with a gratuity ; or

(*b*) an amount equal to such compensation as he would have been entitled to under paragraph 10 of this Schedule, if he had on the date of his retirement from the service of the Commissioner accepted a transfer to other public service.

PART III—OTHER OFFICERS

Special definition.

13. In this Part of this Schedule, " contract officer " means a person in the service of the Commissioner who, immediately before the operative date, was serving in the public service of the Federation under a written contract for a specified period of not less than two years but does not include a person serving under a probationary agreement.

Contract officers—terminal rights.

14.—(1) Where the appointment of a contract officer is terminated by the Commissioner as a result of the dissolution of the Federation, he shall be entitled to—

(*a*) where the contract provides that a gratuity shall be payable at fixed intervals or on the completion of the officer's engagement, an amount in respect of accrued gratuity calculated at the rate specified in the contract in respect of the completed period of the engagement and the period of vacation leave for which the officer is eligible on the date of the termination of his contract ; and

(*b*) a payment of salary in respect of, either—

(i) such period of vacation leave for which the officer is eligible on the date of the termination of his contract in respect of the completed period of his engagement ; or

(ii) a period of three months,

whichever is the greater ; and

(*c*) a compensatory gratuity equal to one-twelfth of one month's emoluments in respect of each complete month of the unexpired term of his engagement.

(2) Any gratuity payable to a contract officer under sub-paragraph (1) (*c*) of this paragraph shall be in lieu of any notice or any sum payable (otherwise than under this paragraph) in lieu of notice in respect of the termination of his contract, and an officer to whom sub-paragraph (1) of this paragraph applies shall within one month after receiving notice of the termination of his contract elect whether to receive the sum so payable or the gratuity payable under this paragraph.

(3) For the purposes of this paragraph—

" one month's emoluments " means the amount of one month's salary under the officer's contract and, in the case of an officer who is a designated officer for the purposes of the Overseas Service (The West Indies) Agreement 1962, includes by way of addition thereto one month's inducement allowance payable in pursuance of that Agreement ;

" unexpired term of an officer's engagement " includes such period of vacation leave as the officer is eligible for on the date of the termination of his contract.

Non-pensionable officers.

15. Where the appointment of a person who is the substantive holder of a non-pensionable office in the service of the Commissioner is terminated by the Commissioner as a result of the dissolution of the Federation, he shall be entitled to receive a compensatory grant equal to one half of a month's salary for each completed period of twelve months' service under the Government of the Federation and under the Commissioner:

Provided that where such a person's total period of such service includes a fraction of a year, the grant payable in respect thereof shall be computed pro rata in respect of the completed months of service comprised in the fraction.

Other public servants.

16.—(1) Subject to sub-paragraph (3) of this paragraph, where the engagement of a person to whom this paragraph applies, other than a person referred to in the next following sub-paragraph, is terminated by the Commissioner as a result of the dissolution of the Federation, he shall be entitled to receive a compensatory grant equal to one half of a month's salary for each year of his continuous Federal service:

Provided that where an officer's total period of such service includes a fraction of a year, the grant payable in respect thereof shall be computed pro rata in respect of the completed months of service comprised in the fraction.

(2) Subject to sub-paragraph (3) of this paragraph, where the engagement of a person to whom this paragraph applies and who is on the staff of the Commission in the United Kingdom for The West Indies, British Guiana and British Honduras, the Commission in Canada for The West Indies, British Guiana and British Honduras, or the Students Liaison Office in the United States of America is terminated by the Commissioner as a result of the dissolution of the Federation, he shall be entitled to receive—

(i) if he has, on the date of the termination of his engagement, had Federal service of less than four years' duration, a compensatory grant equal to one half of a month's salary for each year of his continuous Federal service;

(ii) if he has, on the date of the termination of his engagement, had Federal service of more than four years' duration, a compensatory grant equal to one month's salary for each year of his continuous Federal service.

(3) A person shall not be entitled to any compensatory grant under this paragraph if he has been offered, after the operative date and before his engagement has been terminated by the Commissioner, a corresponding appointment in the public service of—

(*a*) any Territory; or

(*b*) British Guiana; or

(*c*) British Honduras; or

(*d*) any Federation that may be established comprising some or all of the Territories.

(4) (*a*) For the purposes of this paragraph, Federal service means service in the public service of the Federation and includes—

(i) such period of service as could, under section 2 (2) of the Pensions Act 1958 of The West Indies (including any amendments thereto) as in force immediately before the operative date, be taken into account in relation to a pensionable officer, as if it were service in a pensionable office in the public service of the Federation, and

(ii) service under the Commissioner.

(*b*) For the purposes of sub-paragraph (3) of this paragraph, an appointment shall not be deemed to be a corresponding appointment unless—

(i) the salary attached thereto is not less than the salary to which the officer was entitled immediately before the operative date; and

(ii) it is a condition of the appointment that the officer will be stationed in the same country as that in which he was stationed immediately before the operative date.

(5) This paragraph applies to any person in the service of the Commissioner, other than a contract officer or a person who is the substantive holder of a pensionable or a non-pensionable office, who has had Federal service of not less than one year's duration.

PART IV—MILITARY PERSONNEL

Special definitions.

17. In this Part of this Schedule—

"commission on equivalent terms" means a commission in a rank not lower than that held by the officer, and at a rate of pay no less than that in issue to the officer, immediately before the revocation of his commission;

"Defence Act" means the Defence Act 1958 of The West Indies (including any amendments thereto) as in force immediately before the operative date, but subject to the provisions of paragraph 1 (2) of this Schedule;

"Defence (Retired Pay, Pensions and Other Grants) Regulations 1958" means the regulations contained in Schedule 5 to the Defence Act, as in force immediately before the operative date, but subject to the provisions of paragraph 1 (2) of this Schedule;

"home Territory" means the Territory in which the officer or soldier, as the case may be, was born or was domiciled immediately before the revocation of the officer's commission, or the soldier's discharge, as the case may be;

"officer" means a person who, immediately before the operative date, held a commission in the West India Regiment granted under section 8 (1) (*a*) of the Defence Act;

"opportunity to enlist on equivalent terms" means enlistment in a rank not lower than that held by the soldier, and at a rate of pay no less than that in issue to the soldier, immediately before his discharge;

"soldier" means a person who, before the operative date, had enlisted in the West India Regiment and whose current term of colour service was, immediately before that date, incomplete.

Officers.

18. Every officer who retires by reason of the revocation of his commission in the West India Regiment as a consequence of the disbanding of the Regiment may, subject to the provisions of this Part of this Schedule, be granted—

(i) retired pay as if he had retired in the circumstances mentioned in regulation 17 of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958;

(ii) a terminal grant calculated in accordance with the provisions of regulation 20 (1) of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958; and

(iii) compensation to be determined by the Commissioner after consultation with the Government Actuary of the United Kingdom.

Soldiers.

19.—(1) A soldier who is discharged as a consequence of the disbanding of the West India Regiment may, subject to the provisions of this Part of this Schedule, be granted a gratuity under and in accordance with the provisions of regulation 28 (*a*) of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958 notwithstanding that his period of reckonable service may be less than twelve years:

Provided that where a soldier's total period of reckonable service includes a fraction of a year, the gratuity payable in respect thereof shall be computed pro rata in respect of the completed months of service comprised in the fraction.

(2) For the purposes of this paragraph reckonable service shall be calculated in accordance with the provisions of regulation 31 of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958.

Payments under this Schedule in lieu of sums payable under Defence Act.

20. Any retired pay, terminal or capital grant or gratuity payable under paragraphs 18 or 19 of this Schedule shall be in lieu of any other sum which could have been payable under the provisions of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958.

Offers of comparable military service.

21.—(1) The provisions of paragraphs 18 and 19 of this Schedule shall not apply to—

(*a*) an officer who is offered, before the disbandment of the Regiment, a commission on equivalent terms in a military force raised by the Government of his home Territory;

(*b*) a soldier who is offered, before the disbandment of the Regiment, an opportunity to enlist on equivalent terms in a military force raised by the Government of his home Territory.

(2) Subject to the provisions of paragraph 25 of this Schedule, any dispute that may arise as to whether—

(*a*) a commission that is offered to an officer is, for the purposes of this paragraph, a commission on equivalent terms in a military force raised by the Government of the officer's home Territory;

(*b*) an opportunity to enlist that is offered to a soldier is, for the purposes of this paragraph, an opportunity to enlist on equivalent terms in a military force raised by the Government of the soldier's home Territory,

shall be decided by the Commissioner.

Officers and soldiers who decline offers of comparable military service.

22.—(1) An officer who retires by reason of the revocation of his commission in the West India Regiment as a consequence of the disbanding of the Regiment and who has declined an offer of a commission on equivalent terms in a military force raised by the Government of his home Territory, may be granted a gratuity under and in accordance with the provisions of regulation 21 of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958 as if he had been called upon to retire on the grounds of the interest of Her Majesty and not due to causes within his own control.

(2) A soldier who is discharged as a consequence of the disbanding of the West India Regiment and who has declined an opportunity to enlist on equivalent terms in a military force raised by the Government of his home Territory, may be granted a gratuity under and in accordance with the provisions of regulation 28 of the Defence (Retired Pay, Pensions and Other Grants) Regulations 1958 as if he had been discharged otherwise than for misconduct.

Payments in lieu of leave.

23. Every officer who, by reason of the revocation of his commission in the West India Regiment, retires and every soldier who is discharged, as a consequence of the disbanding of the West India Regiment, and who is eligible for a period of privilege leave shall be paid an amount equal to the pay which he would have received, if his commission had not been revoked or if he had not been discharged, as the case may be, in respect of that period of privilege leave.

PART V—SUPPLEMENTARY

Application of appropriate law.

24. Where any person retires pursuant to paragraph 5 of this Schedule the provisions of the appropriate law shall, subject to the provisions of this Schedule, 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.

Persons aggrieved may appeal to Tribunal.

25. Any person who, immediately before the operative date, was a member of the public service of the Federation, and who is aggrieved by

any decision of the Commissioner under any of the provisions of this Schedule, may appeal to the Tribunal and the Tribunal may confirm, modify or reverse the decision of the Commissioner.

Modified application of provisions of Schedule.

26. If the Commissioner, acting on the advice of the Tribunal, recommends that in their application to any officer the foregoing provisions of this Schedule shall have effect subject to such modifications or exemptions as the Commissioner may specify and a Secretary of State is satisfied that there are special reasons relating to that officer why that recommendation shall have effect, the provisions of this Schedule shall have effect accordingly.

Gratuities, etc. exempt from tax.

27. Any compensation, gratuity, grant or other lump sum (other than the gratuity or other payment referred to in paragraph 14 (1) (*a*) and (*b*) of this Schedule) payable under this Schedule shall be exempt from tax under any law in force in a Territory relating to the taxation of incomes or imposing any other forms of taxation.

Sums payable charged on funds, etc. of Commissioner.

28. All such sums of money as may become payable under this Schedule are hereby charged on the funds and assets of the Commissioner and shall be paid therefrom on the warrant of the Commissioner.

ANNEX

Instructions for the Calculation of Compensation Payable under Paragraph 6 (1) (c) (ii)

1. Compensation shall be calculated by multiplying the amount of the officer's annual pensionable emoluments on the date taken for calculation by the appropriate factor, and the resulting amount, or eleven thousand pounds, whichever is the less, shall be the amount of compensation to which the officer is entitled.

2. (i) "The date taken for calculation" means the date most advantageous to the officer between the date on which he is notified of his redundancy date and the date of his retirement;

(ii) "the appropriate factor" means, in relation to an officer other than a judge, the factor obtained from Table II of this Annex or, in relation to a judge the factor obtained from Table III of this Annex, that is applicable to the age and pensionable service of that officer on the date taken for calculation reckoned in completed years and months.

Instructions for the Calculation of Compensation Payable under Paragraph 10

1. Compensation shall be calculated by multiplying by the appropriate factor the amount by which, in the case of an officer who has accepted a transfer to the public service of his home Territory, his comparable emoluments or, in the case of an officer who has accepted a transfer to the public service of a Territory other than his home Territory, his last drawn pensionable emoluments in the public service of the Commissioner, exceeds the amount of the annual pensionable emoluments payable to him immediately after his transfer, and the resulting amount shall be the compensation to which the officer is entitled.

2. "The appropriate factor" in relation to an officer means the factor obtained from Table IV of this Annex that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

Instructions for Obtaining the Appropriate Factor from Tables II or III of this Annex

I. Read off from the table the factors for the officer's age at his last birthday and his—

(*a*) completed years of service,

(*b*) completed years of service plus one year.

II. Substract I (*a*) from I (*b*), divide the difference by twelve and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.

III. Add I (*a*) and II.

IV. Repeat steps I to III for the officer's age at his next birthday.

V. Divide the difference between III and IV by twelve and multiply by the number of completed months of age, if any since the officer's last birthday.

VI. If IV is greater than III, add V to III,
if IV is less than III, subtract V from III.

VI is the factor required.

Instructions for Obtaining the Appropriate Factor from Tables I or IV of this Annex

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. If I (*b*) is greater than I (*a*), add II to I (*a*),
if I (*b*) is less than I (*a*), subtract II from I (*a*).

III is the factor required.

Table I

Paragraph 6 (1) (*b*)

Age of Officer	*Factor*	*Age of Officer*	*Factor*
		35	15·84
16	17·99	36	15·70
17	17·89	37	15·55
18	17·79	38	15·40
19	17·69	39	15·24
20	17·59	40	15·07
21	17·49	41	14·90
22	17·39	42	14·73
23	17·29	43	14·55
24	17·19	44	14·36
25	17·08	45	14·17
26	16·97	46	13·97
27	16·86	47	13·76
28	16·74	48	13·54
29	16·62	49	13·32
30	16·50	50	13·08
31	16·38	51	12·84
32	16·25	52	12·59
33	16·12	53	12·50
34	15·98	54 and over ...	12·50

TABLE II

Paragraph 6 (1) (c) (ii)

Age of Officer	Factor where length of service in years is:—							
	1	2	3	4	5	6	7	8
16 ...	·18							
17 ...	·19	·25						
18 ...	·20	·26	·32					
19 ...	·20	·27	·34	·41				
20 ...	·21	·28	·36	·43	·50			
21 ...	·22	·30	·38	·45	·52	·60		
22 ...	·24	·32	·40	·48	·56	·64	·72	
23 ...	·26	·35	·44	·52	·61	·70	·78	·87
24 ...	·29	·38	·48	·58	·67	·77	·86	·96
25 ...	·32	·43	·54	·65	·76	·86	·97	1·08
26 ...	·37	·49	·61	·73	·85	·98	1·10	1·22
27 ...	·41	·55	·69	·83	·97	1·10	1·24	1·38
28 ...	·47	·63	·78	·94	1·10	1·26	1·41	1·57
29 ...	·54	·72	·90	1·07	1·25	1·43	1·61	1·79
30 ...	·62	·82	1·02	1·23	1·44	1·64	1·84	2·05
31 ...	·70	·94	1·18	1·41	1·64	1·88	2·12	2·35
32 ...	·81	1·08	1·35	1·62	1·89	2·16	2·43	2·70
33 ...	·93	1·24	1·54	1·85	2·16	2·47	2·78	3·09
34 ...	1·05	1·40	1·74	2·09	2·44	2·79	3·14	3·49
35 ...	1·16	1·55	1·94	2·33	2·72	3·10	3·49	3·88
36 ...	1·27	1·69	2·12	2·54	2·96	3·38	3·81	4·23
37 ...	1·36	1·81	2·26	2·71	3·16	3·62	4·07	4·52
38 ...	1·42	1·90	2·37	2·84	3·32	3·79	4·27	4·74
39 ...	1·47	1·96	2·44	2·93	3·42	3·91	4·40	4·89
40 ...	1·49	1·99	2·48	2·98	3·48	3·98	4·47	4·97
41 ...	1·50	2·00	2·50	2·99	3·49	3·99	4·49	4·99
42 ...	1·48	1·98	2·47	2·96	3·46	3·95	4·45	4·94
43 ...	1·45	1·93	2·41	2·89	3·37	3·86	4·34	4·82
44 ...	1·39	1·85	2·32	2·78	3·24	3·70	4·17	4·63
45 ...	1·32	1·76	2·20	2·63	3·07	3·51	3·95	4·39
46 ...	1·23	1·64	2·06	2·47	2·88	3·29	3·70	4·11
47 ...	1·14	1·52	1·90	2·27	2·65	3·03	3·41	3·79
48 ...	1·03	1·38	1·72	2·06	2·41	2·75	3·10	3·44
49 ...	·93	1·24	1·55	1·86	2·17	2·48	2·79	3·10
50 ...	·83	1·11	1·39	1·67	1·95	2·22	2·50	2·78
51 ...	·74	·99	1·24	1·48	1·73	1·98	2·22	2·47
52 ...	·65	·86	1·08	1·30	1·51	1·73	1·94	2·16
53 ...	·56	·74	·93	1·12	1·30	1·49	1·67	1·86
54 ...	·47	·62	·78	·94	1·09	1·25	1·40	1·56
55 ...	·38	·51	·64	·77	·90	1·02	1·15	1·28
56 ...	·31	·41	·52	·62	·72	·82	·93	1·03
57 ...	·24	·32	·40	·48	·56	·64	·72	·80
58 ...	·18	·24	·30	·36	·42	·48	·54	·60
59 ...	·12	·16	·20	·24	·28	·32	·36	·40
60 and over	nil	nil	nil	nil	nil	nil	nil	nil

TABLE III

Paragraph 6 (1) (*c*) (ii)

Age of Judge	Factor where length of service is:			
	2 years	3 years	4 years	5 years or more
50	1·97	2·96	3·94	4·93
51	1·86	2·80	3·73	4·66
52	1·76	2·63	3·51	4·39
53	1·65	2·47	3·30	4·12
54	1·54	2·30	3·07	3·84
55	1·42	2·13	2·84	3·55
56	1·30	1·94	2·59	3·24
57	1·17	1·75	2·34	2·92
58	1·04	1·55	2·07	2·59
59	·90	1·35	1·80	2·25
60	·76	1·14	1·52	1·90
61	·62	·92	1·23	1·54
62	·48	·71	·95	1·19
63	·33	·50	·66	·83
64	·19	·29	·38	·48
65 and over	nil	nil	nil	nil

TABLE IV

Paragraph 10

Age	*Factor*	*Age*	*Factor*
30 and below ...	5·00	40	8·92
31	5·08	41	9·00
32	5·21	42	8·92
33	5·47	43	8·77
34	5·90	44	8·40
35	6·56	45	7·61
36	7·44	46	6·39
37	8·10	47	5·60
38	8·53	48	5·23
39	8·79	49	5·08
		50 and over ...	5·00

EXPLANATORY NOTE

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

This Order makes provision for the retirement of and the payment of compensation and retiring benefits to certain officers in the public service of the Federation of the West Indies.