
CHAPTER 43**PENSIONS**

LIST OF AUTHORISED PAGES

1 – 4	LRO 1/2008
5 – 8	Original
9 – 10	LRO 1/2008
11 – 12	Original
13 – 18	LRO 1/2008
19 – 29	Original

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Pensions and gratuities charged on Consolidated Fund.
4. Grants of pensions.
5. Permanent Secretary's pension on retirement after forty years.
6. Gratuity.
7. Permanent Secretary's accelerated pension.
8. Gratuity.
9. Pensions for service wholly within the group.
10. Pension where other service is not within the group.
11. Pension when other services both within and not within the group.
12. Officers transferred to other public service.
13. In case of severe injury officer compelled to quit service before completion of pensionable period may be given gratuity or pension.
14. Gratuity may be granted to an officer who may be constrained from infirmity of mind or body to leave the public service.
15. Abolition of office.
16. Unlawful to grant pension to public officer under normal retiring age except on medical certificate.
17. Termination of appointment in the public interest.
18. Person to whom pension may be granted before attaining the normal retiring age liable to be called upon to fill other offices.
19. Re-employed pensioners.
20. Circumstances in which pension may be granted to transferred officers.

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21. Provisions of Act apply to certain persons transferred from the service of The Bahamas before its enactment.
 22. Pensions of persons transferred to service of approved authorities.
 23. Pensions of persons transferred to public service from approved authorities.
 24. Computation of service.
 25. Officer retiring before qualifying for pension.
 26. Gratuity in case of death of officer.
 27. Other gratuities.
 28. Decision of Governor-General final in question of claim to pension or gratuity.
 29. Payment of pensions and gratuities, without abatement or deduction.
 30. Retired Governor may not accept directorship, etc., of a company.
 31. Safeguarding rights to pension or gratuity of persons serving in armed forces, etc.
 32. Secondment to approved authorities.
 33. Secondment to public service.
 34. Exercise of powers by the Governor-General

FIRST SCHEDULE — Scheduled Administrations.

SECOND SCHEDULE.

THIRD SCHEDULE — Approved Authorities.

CHAPTER 43

PENSIONS

**An Act to repeal and re-enact with amendments
the Pensions Act.***[Commencement 21st July, 1952]*

10 of 1909
28 of 1952
2 of 1956
50 of 1957
68 of 1959
11 of 1963
8 of 1964
43 of 1964
11 of 1969
3 of 1972
22 of 1974
E.L.A.O., 1974
12 of 1989
30 of 1996
8 of 1997
28 of 1998
8 of 2001
23 of 2001
4 of 2007
5 of 2007

1. This Act may be cited as the Pensions Act.

Short title.

2. ¹In this Act, unless the context otherwise requires, the following expressions have the meanings assigned to them, that is to say —

Interpretation.
 8 of 1964, s. 2

“appropriate Commission” shall have the meaning assigned thereto in Article 123(4) of the Constitution;

22 of 1974, s. 2.

“approved authority” means —

3 of 1972, s. 2.

(a) any one of the public authorities, boards or corporations specified in the Third Schedule to this Act;

Third Schedule.

(b) the proprietor of any registered independent school which is for the time being in receipt of grant-in-aid under the provisions of the Education Act;

Ch. 46.

(c) The Bahamas Red Cross Society; and

¹ The relevant provisions of Act No. 8 of 1964 had effect from 1st January, 1963 (8 of 1964, s. 11), of Act No. 3 of 1972, from 1st January, 1970 (22 of 1974, s. 10) and of Act No. 22 of 1974 from 30th October, 1974.

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- (d) ²any other authority or association, whether or not a body corporate, designated by the Governor-General by order under this section as an approved authority;

11 of 1969, s. 2.

“contract officer” has the meaning assigned thereto by section 2 of the Public Service Act;

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

“pensionable emoluments” —

11 of 1969, s. 2.

- (a) in respect of service under the Government of The Bahamas, include salary and any allowance declared by any enactment to be pensionable but, save as aforesaid, do not include personal allowance, house allowance, the estimated value of free quarters, any fee paid out of the Consolidated Fund or any other emoluments whatever;
- (b) in respect of other public service, mean emoluments which count for pension in accordance with the law or regulations in force in such service;

“pensionable office” means —

11 of 1969, s. 2.

- (a) in respect of service under the Government of The Bahamas, any public office declared by the Governor-General by order to be a pensionable office;
- (b) in relation to other public service, an office which is for the time being a pensionable office under the law or regulations in force in respect of such service;

22 of 1974, s. 2.

“public officer” means the holder of any public office to which he has been substantively appointed, but does not include a contract officer, a temporary officer or an officer on probation;

“public service” means —

- (a) service in a civil capacity under the Government of The Bahamas or any other country or territory in the Commonwealth;

² See Subsidiary Legislation.

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- (b) service under the East Africa High Commission, the East African Railways and Harbours Administration, the East African Posts and Telecommunications Administration or the East African Common Services Organisation;
 - (c) service which is pensionable —
 - (i) under the Overseas Superannuation Scheme;
 - (ii) under any Acts relating to the superannuation of teachers in the United Kingdom;
 - (iii) under a local authority in the United Kingdom or in The Bahamas;
 - (iv) under the National Health Service of the United Kingdom; or
 - (v) in a Colonial University College;
 - (d) any other service which the Governor-General has determined to be public service for the purposes of this Act; *Corrigenda 19/12/1974, O.G. Supp. Part II.*
 - (e) except for the purposes of computation of a pension, gratuity or other allowance, and of subsection (3) of section 4 of this Act, service in respect of which a pension may be granted under the Governors' Pension Act 1957, or any Act amending or replacing that Act;
 - (f) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the Eastern Africa Court of Appeal Order in Council, 1961; and
 - (g) service in the service of the Interim Commissioner for the West Indies;
- “repealed Act” means the Pensions Act 1909; *10 of 1909.*
- “scheduled administration” means —
- (a) the Government of any territory, or any authority mentioned in the First Schedule to this Act; *First Schedule.*
 - (b) the Government of Ceylon, in respect of any officer appointed to service under that Government before 4th day of February 1948;

- (c) the Government of Palestine, in respect of any officer appointed to service under that Government before the 15th day of May 1948;
- (d) the Government of the Somali Republic, in respect of any officer appointed to service under the former government of the Somaliland Protectorate before the 26th day of June 1960;
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August 1960;
- (f) the East African Common Services Organisation, in respect of any person deemed to have been appointed or appointed to service as President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa by or under the Eastern Africa Court of Appeal Order in Council, 1961; and
- (g) the Interim Commissioner for the West Indies in respect of any person deemed to have been appointed or appointed to service as a Judge, Registrar, officer or servant of the British Caribbean Court of Appeal by or under the British Caribbean Court of Appeal Order in Council, 1962;

“service in the group” means service in the public service under the Government of The Bahamas and under a scheduled administration or scheduled administrations.

3. There shall be charged on and paid out of the Consolidated Fund all such sums of money as may from time to time be granted by way of pensions or gratuities in accordance with this Act to persons who have been in the public service of The Bahamas.

4. ³(1)(a) Subject to the provisions of this Act it shall be lawful for the Governor-General to grant to any public officer holding a pensionable office under the Government of The Bahamas who has been in the public service under the Government of The Bahamas for five years or more on

Pensions and gratuities charged on Consolidated Fund.

Grants of pensions.
8 of 1964, s. 3.

³ Subsection (1) of section 4 had effect from 1st January, 1963 (8 of 1964, s. 11).

his retirement a pension at the rate of one-seven hundred and twentieth of his pensionable emoluments in respect of each completed month of his pensionable service.

(b) Save when the Governor-General in any special case otherwise directs, this subsection shall not apply in the case of any officer transferred to or from the public service under the Government of The Bahamas from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity and the amount of pension or gratuity for which the officer would have been eligible, if the service of the officer had been wholly service in public service under the Government of The Bahamas.

(2) An officer to whom a pension is granted under this Act may, at his option exercisable on a day not later than the day preceding the officer's retirement, be paid in lieu of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to ten times the amount of the reduction so made in the pension: *50 of 1957, s. 2.*

Provided that an officer who has exercised his option before the day preceding his retirement may revoke this option on or before, but not later than, the day preceding his retirement.

Maximum pension.

(3)(a)⁴ Except in cases provided for by paragraph (b) of this subsection, a pension granted to an officer under this Act shall not exceed two-thirds of his highest pensionable emoluments at any time while in public service under the Government of The Bahamas. *8 of 1964, s. 3.*

(b) An officer who has been granted a pension in respect of other public service shall not at any time draw from the public funds of The Bahamas an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of his highest pensionable emoluments at any time in the course of his public service:

⁴ Subsection (3) of section 4 had effect from 1st January, 1963 (8 of 1964, s. 11).

Provided that where any officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be —

- (i) where the right to commute any part of a pension in return for the payment of a gratuity has been deemed to have been exercised, the amount if that right had not been exercised or been deemed to have been exercised;
- (ii) in all other cases, four-thirds of its actual amount.

Corrigenda
19/12/74.

(c) Where the limitation prescribed by the preceding paragraph operates, the amount of pension to be drawn from the public funds of The Bahamas shall be such amount as the Governor-General shall determine in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(d) For the purpose of this section where any increase in pension is granted to or in respect of a pension or allowance granted under this Act and the grant of the increase is subsequent to the date of the grant of the pension or allowance or where any comparable increase in the pension or pensions is drawn in respect of other public service, whether or not that increase is governed by any instrument having the force of law, such increase granted or drawn shall not be taken into account.

Right to benefits of Act not absolute.

(4) No person shall be considered to have an absolute right to the benefits of this Act, or the superannuation or other allowances hereby provided for, but the same shall be considered to be granted only in consideration of good and faithful service during the time on which they are to be calculated and shall be withheld by the Governor-General where any public officer has been found guilty, after due inquiry by the Governor-General, of disgraceful conduct, or of gross dereliction of duty, or has been found on like inquiry indebted to the Government of The Bahamas for any public money which has come to his hands either legally or illegally; and may be withheld in whole or in part by the Governor-General whenever so requested by a

resolution of the House of Assembly or where any public officer has in the opinion of the Governor-General not performed his duties to the satisfaction of the Government; and the other provisions of this Act shall be subject to the provisions in this subsection contained.

5.⁵ (1) Notwithstanding subsections (1), (2) and (3) of section 4, it shall be lawful for the Governor-General to grant to every person who, after the coming into force of this section, holds the office of Permanent Secretary, and —

Permanent Secretary's pension on retirement after forty years.
28 of 1998, s. 2.

- (a) has served in the public service for a minimum period of forty years; or
- (b) has served in the public service for a minimum period of twenty-five years and at least ten of those years as a Permanent Secretary,

on his retirement from that office a pension at a rate of one seven hundred and twentieth of that person's pensionable emoluments in respect of each completed month of pensionable service as if that person had served for a period of forty years, save that the pension payable to that person pursuant to this subsection shall not exceed two thirds of the highest pensionable emoluments paid to that person during his period of service in the public service.

(2) For the purposes of this section, the term "Permanent Secretary" includes the Secretary to the Cabinet, the Financial Secretary, the Commissioner of Police and the Commander, Defence Force.

6.⁵ A person to whom a pension is payable under section 9 shall be granted in addition to such pension a gratuity equal to ten times of one quarter of that person's pensionable emoluments.

Gratuity.
28 of 1998, s. 2.

7. Notwithstanding subsections (1), (2) and (3) of section 4 and sections 5 and 6, it shall be lawful for the Governor-General to grant to a person who —

Permanent Secretary's accelerated pension.
36 of 2000, s. 3.
23 of 2001, s. 3.

- (a) during the period 1st July 2000 to 30th June, 2002, holds the office of Permanent Secretary; and

⁵ Section 5 is deemed to have come into force on 1st April 1999 by 5 of 2007.

⁵ Section 6 is deemed to have come into force on 1st April 1999 by 5 of 2007.

- (b) has served in the public service for a minimum period of twenty-five years and at least eight of those years as a Permanent Secretary,

on that person's retirement from office, a pension at a rate of one seven hundred and twentieth of that person's pensionable emoluments in respect of each completed month of pensionable service as if that person had served for a period of forty years, save that the pension payable to that person shall not exceed two thirds of the pensionable emoluments paid to that person during that person's period of service in the public service.

Gratuity.

36 of 2000, s. 3.

8. A person to whom a pension is payable under section 7 shall be granted in addition to such pension, a gratuity equal to ten times of one quarter of that person's pensionable emoluments.

Pensions for service wholly with-
in the group.

8 of 1964, s. 4.

9. ⁶(1) Subject to the provisions of this Act, where the other public service of an officer to whom this section applies has been wholly under one or more scheduled administrations and his aggregate service would have qualified him had it been wholly service in the public service under the Government of The Bahamas for a pension under this Act, he may, on his retirement from the public service, be granted in respect of his service in public service under the Government of The Bahamas a pension of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in public service under the Government of The Bahamas as the aggregate amounts of his pensionable emoluments during service in public service under the Government of The Bahamas shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the group.

(2) In determining for the purposes of this section the pension for which an officer would have been eligible if his service had been wholly service in public service under the Government of The Bahamas —

⁶ Section 9 had effect from 1st January, 1963 (8 of 1964, s. 11).

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- (a) his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of his retirement from the public service except that where the officer is not serving under a scheduled administration at that date, the date upon which he was last transferred from the public service under a scheduled administration shall be deemed to be the date of his retirement for the purposes of this paragraph;
 - (b) regard shall be had to the condition that pension may not exceed two-thirds of the highest pensionable emoluments enjoyed by him at any time during his public service;
 - (c) no period of public service under a scheduled administration or under the Government of The Bahamas in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be, shall be taken into account.
- (3) For the purposes of this section the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group:

Provided that —

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

First Schedule.

Pension where
other service is
not within the
group.
8 of 1964, s. 5.

(4) Where an officer entered the public service under the Government of The Bahamas prior to the first day of January 1963, his pension may be calculated as though none of the scheduled administrations under which he has served had been included in the First Schedule to this Act, if this should be to his advantage.

10. (1)⁷ Subject to the provisions of this Act, where the other public service of an officer to whom this section applies has not included service under any of the scheduled administrations, and his aggregate service would have qualified him, had it been wholly service in public service under the Government of The Bahamas for a pension under this Act, he may on his retirement from public service, be granted in respect of his service in public service under the Government of The Bahamas, a pension of an amount equal to the pension for which he would have been eligible under subsection (1) of section 4, if there had been no qualifying period and if he had had no other public service.

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

Pension when
other services
both within and
not within the
group.
8 of 1964, s. 5.

11.⁸ Where a part only of the other public service of an officer to whom this section applies has been under one or more of the scheduled administrations, the provisions of section 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

⁷ Section 10 had effect from 1st January, 1963 (8 of 1964, s. 11).

⁸ Section 11 had effect from 1st January, 1963 (8 of 1964, s. 11).

12.⁹ Sections 9, 10 and 11 of this Act shall apply only in the case of an officer transferred to or from public service under the Government of The Bahamas from or to other public service.

Officers transferred to other public service.

13. It shall be lawful for the Governor-General to grant to any public officer who, although he has not completed a period of service which would have entitled him to a pension, is compelled to quit the public service by reason of severe bodily injury, occasioned without his own default in the discharge of his public duty, a gratuity not exceeding three months' pay for every two years of service, or a pension not exceeding ten-sixtieths of his annual salary.

In case of severe injury officer compelled to quit service before completion of pensionable period may be given gratuity or pension.

14. It shall be lawful for the Governor-General to grant to any public officer who is constrained from infirmity of mind or body to leave the public service before the completion of the period which would entitle him to a pension, such sum of money by way of gratuity as the Governor-General may think proper, but so as that no such gratuity shall exceed the amount of one month's pay for each year of service.

Gratuity may be granted to an officer who may be constrained from infirmity of mind or body to leave the public service.

15. (1) If a public officer holding a pensionable office who has completed the period of service which would qualify him to receive a pension under the provisions of subsection (1) of section 4 of this Act, is compelled to leave the public service of The Bahamas in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by reason of which greater efficiency or economy can be effected, he may be granted a temporary pension at the rate of one-seven hundred and twentieth part of his salary in respect of each completed month of such of his service which is pensionable under the provisions of this Act or any other Act, subject to the condition that he shall be liable to be recalled to the public service of The Bahamas as provided in section 18 of this Act:

Abolition of office.

2 of 1956, s. 2.

22 of 1974, s. 3.

Provided that, if such public officer is not qualified for other employment, or if there is no reason, in the opinion of the Governor-General, to expect that he can be shortly re-employed in the public service of The Bahamas,

⁹ Section 12 had effect from 1st January, 1963 (8 of 1964, s. 11).

a pension (or, if he is eligible to elect under the provisions of subsection (2) of section 4 of this Act, a reduced pension and gratuity) may be granted to him free from the above-mentioned condition.

(2) If a public officer holding a pensionable office who has not completed the period of service which would qualify him to receive a pension under the provisions of subsection (1) of section 4 of this Act, is compelled to leave the public service of The Bahamas in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by reason of which greater efficiency or economy can be effected, it shall be lawful for the Governor-General to grant him a gratuity not exceeding three months' salary for every completed two years of such of his service which is pensionable under the provisions of this Act or any other Act.

22 of 1974, s. 3.

(3)¹⁰ Any public officer who is compelled to leave the public service of The Bahamas in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the department to which he belongs, by reason of which greater efficiency or economy can be effected may, in addition to the benefits which may be granted to him under subsection (1) or (2) of this section, be granted a gratuity of one-third of his annual pensionable emoluments at the date upon which he leaves the said public service.

Unlawful to grant pension to public officer under normal retiring age except on medical certificate.
*22 of 1974, s.3.
8 of 1997, s.2.
4 of 2007.*

16.¹⁰ (1) Subject to the provisions of this Act, no pension shall be granted to any public officer except on his retirement from the public service in one of the following cases —

- (a) a case referred to in subsection (1) of section 15 of this Act;
- (b) a case referred to in section 17, 20 or 21 of this Act;
- (c) any public officer attaining the age of sixty years;

¹⁰ Subsection (3) had effect from 30th October, 1974, (22 of 1974).

¹⁰ Subsections (1), (2), (3) and (4) had effect from 30th October, 1974, (22 of 1974).

- (d) on medical evidence to the satisfaction of the Governor-General acting in accordance with the advice of the appropriate Commission that an officer is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent.

(2) Notwithstanding anything contained in subsection (1) of this section, any public officer may retire at any time after attaining the age of fifty-five years or on completion of thirty years service in a pensionable office, whichever is the earlier. *22 of 1974, s. 4.*

(3) Subject to the provisions of Article 115 of the Constitution, the Governor-General, acting in accordance with the advice of the appropriate Commission, may require any public officer whose appointment in a pensionable office is confirmed on or after the thirtieth day of October 1974, to retire from the public service at any time after the officer attains the age of fifty-five years and any public officer who is so required to retire shall retire accordingly. *22 of 1974, s. 4.*

(4) Every public officer shall, upon attaining the age of sixty-five years, retire from the public service. *22 of 1974, s. 4.
8 of 2001.
4 of 2007.*

Termination of
appointment in
the public inter-
est.
50 of 1957, s. 3.

17. Where a public officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, such termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Act, the Governor-General may, if he thinks fit, grant to such officer such pension, gratuity or other allowance as he thinks just and proper, not exceeding in amount that for which he would be eligible if he were suffering from some infirmity of mind or body likely to be permanent.

Person to whom
pension may be
granted before
attaining the
normal retiring
age liable to be
called upon to fill
other offices.
22 of 1974, s. 5.

18.¹¹ With the exception of persons entitled to pensions under the provisions of section 20 or 21 of this Act, every public officer to whom a pension shall have been granted before he shall have attained the age of fifty years shall, until he has attained that age, be liable to be called upon to fill in The Bahamas any public office or situation under the Crown for which his previous public service may render him eligible; and if he shall decline, when called upon to do so, to take upon himself such office or situation, or shall decline or neglect to execute the duties thereof satisfactorily being in a competent state of health, he shall forfeit his right to the pension which has been granted to him.

Re-employed
pensioners.

19. If any public officer to whom a pension has been granted under any Act is appointed to another office in The Bahamas, the Governor-General may either, notwithstanding the provisions of any law prescribing the remuneration of such other office, reduce such remuneration in view of the pension which the officer is receiving, or may order that the pension granted to the officer shall cease and that, if the officer subsequently retires in circumstances in which he may be granted a pension, he shall be granted, in lieu of his previous pension, a pension computed as if the periods of his service in The Bahamas had been continuous, and that such pension shall be based on his pensionable emoluments on his previous or final retirement from the service of The Bahamas, whichever are the greater:

Provided that if, on his previous retirement, he was paid a gratuity and pension, the gratuity to be paid to him

¹¹ Section 18 had effect from 30th October, 1974 (22 of 1974).

on final retirement shall be reduced by the amount of the gratuity already paid.

20.¹² No pension shall be granted under the provisions of this Act to any public officer who has been transferred to public service except on his retirement from the public service —

Circumstances in which pension may be granted to transferred officers.
8 of 1964, s. 7.

- (a) on or after attaining the age at which he is permitted by the law or regulations of the public service in which he is last employed to retire on pension or gratuity or, if no age is prescribed by the said law or regulations, he retires on or after attaining the age of fifty; or
- (b) in any other circumstances in which he is permitted by the said law or regulations to retire on pension or gratuity:

Provided that paragraph (b) of this section shall not apply in the case of a female public officer who retires for the reason that she has married or is about to marry.

21. (1) Subject to the provisions of subsections (2) and (3) of this section, the provisions of this Act relating to the grant of a pension shall apply to a person to whom the provisions of section 13 of the repealed Act apply as if such person had been transferred from the public service of The Bahamas to employment in the service of any of the scheduled administrations after the coming into operation of this Act, unless such person was in receipt of a pension under the provisions of the repealed Act at the date of the coming into operation of this Act in which case the provisions of the repealed Act shall continue to apply.

Provisions of Act apply to certain persons transferred from the service of The Bahamas before its enactment.
68 of 1959, s. 8.

¹² Section 20 had effect from 1st January, 1963 (8 of 1964, s. 11).

(2) A person to whom the provisions of this Act apply under subsection (1) of this section, who had ultimately retired from the service of the Crown or the service of any other of the scheduled administrations prior to the date of the coming into operation of this Act and who was not, at the date of the coming into operation of this Act, in receipt of a pension under the provisions of the repealed Act shall, subject to the provisions of this Act, be entitled to a pension under the provisions of this Act with effect from the date of the coming into operation of this Act.

(3) A person who becomes entitled to the benefits of this Act by virtue of subsections (1) and (2) of this section shall cease to be entitled to the benefits of the repealed Act.

Pensions of persons transferred to service of approved authorities.
3 of 1972, s. 3.

22.¹³ (1) Whenever any public officer holding a pensionable office under the Government of The Bahamas ceases to be the holder of such office by reason of his transfer with the consent of the Governor-General to the service of an approved authority, and such person subsequently retires from the service of the approved authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of this Act, then in any such case the following provisions of this section shall have effect.

(2) Any pension payable to any such person as is mentioned in subsection (1) of this section by the approved authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government of The Bahamas and with such approved authority taken together and such total service shall be reckoned as continuous service for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to an approved authority as a contribution to every pension paid in accordance with subsection (2) of this section, such amounts as would have been payable to the person concerned by way of pension under this Act, if such person had retired from the public service and if he had been granted a pension under this Act upon the date of his ceasing to hold a public office.

¹³ Section 22 had effect from 1st January, 1970 (22 of 1974, s. 10).

(4) The Governor-General shall not consent to the transfer of a public officer to the service of an approved authority under this section unless he is satisfied that such approved authority has established or will establish in respect of such officer a pension scheme not less favourable to such officer than the scheme applicable to him under the provisions of this Act.

23.¹⁴ (1) Whenever any person employed by any approved authority in pensionable circumstances is transferred with the consent of the Governor-General to any pensionable office under the Government of The Bahamas, the service of such person under that approved authority shall be reckoned for the purposes of this Act to be pensionable service under the Government of The Bahamas and as continuous service for the purpose of computing his pension under this Act.

Pensions of persons transferred to public service from approved authorities.
3 of 1972, s. 2.

(2) The Governor-General shall not consent to the transfer of any person to pensionable public service under the provisions of this section unless and until the approved authority from which he is transferred has made satisfactory arrangements with the Treasurer for the reimbursement to the Consolidated Fund of such proportion of the cost of any pension or other benefit granted to that person under the provisions of this Act as the length of his service with that approved authority shall bear to the total length of his continuous service with such authority and under the Government of The Bahamas taken together.

(3) A pension granted to any public officer under the provisions of this section shall be in full satisfaction and discharge of any right to pension which such officer might otherwise have had if he had not been transferred to public service.

24.¹⁵ (1) Subject to the provisions of this Act, service in respect of which a pension or gratuity may be granted under this Act must be unbroken service.

Computation of service.

(2) Subject to the provisions of subsections (3) and (4) of this section, in computing the period of service in respect of which an officer may be granted a pension or gratuity under this Act, the whole period of public service of such

*11 of 1969, s. 3;
22 of 1974, s. 6.*

¹⁴ Section 23 had effect from 1st January, 1970 (22 of 1974, s. 10).

¹⁵ Section 24 had effect from 1st July, 1967 (11 of 1969, s. 1).

officer, including any part of of such service in an office not being a pensionable office, but excluding any period during which such officer served as a contract officer or was on leave without pay, shall be taken into account:

12 of 1989, s. 2.

Provided that for the purpose of determining the eligibility of an officer to the grant of a pension or gratuity under this Act, based upon the length of service of that officer, any period of service excluded under the foregoing provisions of this subsection shall be taken into account.

(3) Where a subordinate police officer or a subordinate officer transfers (or before the first day of July 1967), transferred from the relevant service to service in an office under the Government of The Bahamas, his period of service in the relevant service shall be taken into account in relation to the grant of a pension or gratuity under this Act if at the date of his retirement he is otherwise eligible for pension or gratuity thereunder:

Provided that where at the date of his transfer as aforesaid any such officer was entitled to retire on pension under the provisions of the relevant Act, the pension or gratuity to be awarded under this Act in respect of his period of service in the relevant service shall be calculated at the rate to which such officer is entitled under the said provisions.

In this subsection the expression —

“relevant Act” means —

(a) in respect of a transfer effected before the first day of July 1967 —

23 of 1964.

(i) in relation to a subordinate officer of an industrial school, section 9 of the Industrial Schools (Subordinate Officers) Act;

Ch. 208.

(ii) in relation to a subordinate officer of the Prison Department, section 7 of the Prisons Act;

Ch. 39.

(b) in respect of a transfer of any subordinate officer effected on or after that date, subject to Article 121 of the Constitution, section 13 of the Public Service Act;

Ch. 205.

(c) in respect of a transfer of a subordinate police officer effected whether before or after that date, the Police Act;

“relevant service” means —

- (a) in relation to a subordinate officer of an industrial school, service in the industrial schools of The Bahamas;
- (b) in relation to a subordinate officer of the Prison Department, service in the Prison Department; and
- (c) in relation to a subordinate police officer service in the Police Force;

“subordinate officer” has the same meaning as in section 11 of the Public Service Act;

“subordinate police officer” means either —

- (a) a subordinate police officer as defined in subsection (1) of section 2 of the Police Act; or
- (b) a police officer to whom the provisions of paragraph (a) of subsection (1) of section 66 of that Act apply.

(4) Where an officer has been deemed pursuant to section 36 of the Public Service Act (now repealed) to have left the public service and in respect of his public service has been granted a gratuity under that section, no account shall be taken of any period of service of such officer served prior to the first day of July 1964, for the purposes of computing the period in respect of which a pension or gratuity may be awarded to such officer under the provisions of this Act. *15 of 1890.*

25.¹⁶ (1) Where any public officer holding a pensionable office, having completed not less than ten years of service in the public service, retires from that service at an age other than that at which or in circumstances other than those in which he may be granted a pension under the provisions of this Act or, in the case of an officer to whom section 13 of the Public Service Act applies, under the provisions of that section in respect of such service, the Governor-General may, if he thinks fit, grant to such officer in respect of each year of such service a gratuity amounting to four per centum of his pensionable emoluments. *Officer retiring before qualifying for pension. 11 of 1969, s. 3; 22 of 1974, s. 7.*

(2) For the purposes of this section the expression “public officer” shall be deemed to include a temporary officer. *Cap. 39 22 of 1974, s. 7.*

¹⁶ Section 25 had effect from 1st July, 1967 (11 of 1969, s. 1) save for the amendment made by 22 of 1974.

Gratuity in case
of death of
officer.

11 of 1969, s. 3.
12 of 1989, s. 2.

26.¹⁷ (1) Where any public officer dies while in the public service of The Bahamas, it shall be lawful for the Governor-General to grant to his legal personal representative a gratuity of an amount equal to the pensionable emoluments of such officer at the date of his death:

Provided that in the case of the death of an officer referred to in section 16(2) the amount payable under the foregoing provisions of this subsection shall not be less than such amount as would have been payable to that officer as gratuity had he exercised, immediately before his death, the option to retire provided in that section.

12 of 1989, s. 2.

(2) Where any payment is made by the Government in respect of the death of such an officer as aforesaid under the provisions of any law relating to workmen's compensation, the amount of any gratuity granted under the provisions of this section shall be reduced by the amount of such payment.

Other gratuities.
11 of 1969, s. 3.
Second Schedule.

27.¹⁸ (1) A gratuity calculated in accordance with the provisions of the Second Schedule to this Act may be granted under this section by the Governor-General if in any case he thinks fit, to any person who retires from employment in the public service of The Bahamas in the circumstances set out in that Schedule but to whom a pension or gratuity may not otherwise be granted under the preceding provisions of this Act.

22 of 1974, s. 8.

(2) Where any person other than a public officer dies while in the public service of The Bahamas, the Governor-General may grant to his legal personal representative a gratuity of an amount not exceeding the annual salary of such person at the time of his death where such person was employed for a period of not less than five years, and where such person was employed for a period of less than five years a gratuity of an amount not exceeding one-half of the annual salary of such person at the time of his death, and, in relation to any such person as aforesaid whose employment in the public service was of a casual nature, for the reference in this subsection to annual salary there shall be substituted a reference to an average annual wage such as is mentioned in paragraph 2 of the said Second Schedule.

Second Schedule.

¹⁷ Section 26 had effect from 1st July, 1967 (11 of 1969, s. 1).

¹⁸ Section 27(1) had effect from 1st July, 1967 (11 of 1969, s. 1).

(3) Notwithstanding anything in this Act, no person who is awarded a gratuity under this section shall be entitled to a further gratuity under any other section of this Act.

28. If any question arises in any department of the public service as to the claim of any person for pension or gratuity under this Act such claim shall be inquired into and decided upon by the Governor-General and his decision shall be final.

Decision of Governor-General final in question of claim to pension or gratuity.

29. All pensions and gratuities, granted under this Act, shall be paid to the person entitled to receive the same, without any abatement or deduction whatever.

Payment of pensions and gratuities, without abatement or deduction.

30. (1) It shall not be lawful for any person who has held office of Governor and has retired from Her Majesty's Colonial Service or Her Majesty's Overseas Service to accept a directorship or any similar position of or in any company operation in The Bahamas without first obtaining the permission of the Secretary of State.

Retired Governor may not accept directorship, etc., of a company.

(2) The Governor-General may suspend the payment of any pension payable to any person who acts in contravention of subsection (1) of this section.

31. Any period for which a public officer absent on leave from The Bahamas has, with the consent of the Governor-General, served with Her Majesty's armed forces, or in any other capacity connected with the state of war, may be counted as service on full pay for the purposes of any Act relating to pensions or gratuities.

Safeguarding rights to pension or gratuity of persons serving in armed forces, etc.

32. (1)¹⁹ The Governor-General may, with the agreement of any approved authority and the consent of the officer concerned, second any public officer holding any pensionable office under the Government of The Bahamas for service with that authority upon such terms and conditions and for such period not exceeding two years at a time as he may think fit.

Secondment to approved authorities.
3 of 1972, s. 4.

(2) Whenever any public officer is seconded for service under this section, he shall not by reason of such secondment cease to be a public officer and the provisions

¹⁹ Section 32 had effect from 1st January, 1970 (22 of 1974, s. 10).

of this Act shall continue to apply to him during the period of his secondment as if he were the holder of the office in the public service of The Bahamas which he was holding immediately before the date of his secondment:

Provided that no such officer shall be entitled to any salary or allowances as a public officer during the period of his secondment.

(3) It shall be a condition of any secondment of a public officer under this section that the approved authority to which he is seconded shall pay into the Consolidated Fund monthly during the period of secondment a contribution towards the prospective pension entitlement of the officer calculated at the rate of twenty-five per centum of the pensionable emoluments of the officer concerned immediately before the date of this secondment.

Secondment to
public service.
30 of 1996, s. 2.

33. (1) An approved authority may second a person holding a pensionable office under that approved authority for service in the public service upon such terms and conditions and for such period not exceeding two years at a time as it thinks fit.

(2) Whenever a person employed by an approved authority is seconded under this section, he shall not by reason of the secondment cease to be employed by that approved authority and his conditions of service under the approved authority shall continue to apply to him during the period of his secondment as if he were the holder of the office under that approved authority, which he was holding immediately before the date of his secondment:

Provided that no person seconded from an approved authority under this section shall be entitled to any salary or allowances as an employee of the approved authority during the period of his secondment.

(3) It shall be a condition of any secondment of a person under this section that the Minister of Finance shall by warrant under his hand pay to the relevant approved authority's pension fund monthly during the period of secondment a contribution towards the prospective pension entitlement of the person concerned calculated at the rate of twenty-five per centum of the pensionable emoluments of the person concerned immediately before the date of his secondment.

34. The Governor-General shall exercise the powers vested in him by this Act in accordance with the provisions of paragraph (2) of Article 123 of the Constitution.

Exercise of powers by the Governor-General

8 of 1964 s. 9

EL.A.O., 1974.

8 of 1964, s. 10.

FIRST SCHEDULE (Section 2)²⁰

SCHEDULED ADMINISTRATIONS

Aden.
 Antigua.
 Barbados.
 Basutoland.
 Bechuanaland Protectorate.
 Bermuda.
 British Guiana.
 British Honduras.
 British Solomon Islands Protectorate.
 Brunei.
 Cayman Islands.
 Commonwealth Caribbean Regional Secretariat.
 Crown Agents for Overseas Governments and Administrations.
 Dominica.
 East African Common Services Organization.
 East Africa High Commission.
 East African Railways and Harbour Administration.
 Eastern Nigeria.
 Eastern Region of Nigeria.
 Employing Authorities under the Overseas Service Act, 1958.
 Employing Authorities under the Overseas Superannuation Scheme.
 Falkland Islands.
 Federation of Malaya.
 Federated Malay States.
 Federation of Nigeria.
 Federation of Rhodesia and Nyasaland.
 Fiji.
 Gambia.
 Ghana.
 Gibraltar.
 Gilbert and Ellice Islands.
 Gold Coast.
 Grenada.
 Hong Kong.
 Interim Commissioner for the West Indies.

3 of 1972, s. 5.

²⁰ The First Schedule had effect from 1st January, 1963 (8 of 1964, s. 11), except for the amendment made by Act No. 3 of 1972, which had effect from 1st January, 1970 (22 of 1974, s. 10).

Jamaica.
Kenya.
Kenya and Uganda Railways and Harbours Administrations.
Leeward Islands (before 1st July, 1956).
Malayan Establishment.
Malayan Union.
Malaysia.
Malta.
Mauritius.
Montserrat.
Nigeria.
North Borneo.
Northern Nigeria.
Northern Region of Nigeria.
Northern Rhodesia.
Nyasaland.
Overseas Audit Department (Home Establishment).
St. Christopher, Nevis and Anguilla.
St. Helena.
St. Lucia.
St. Vincent.
Sabah.
Sarawak.
Seychelles.
Sierra Leone.
Singapore.
Somaliland Protectorate.
Straits Settlements.
Swaziland.
Tanganyika.
The West Indies (Federation).
Tonga.
Trinidad and Tobago.
Turks and Caicos Islands.
Uganda.
Unfederated Malaya States.
United Kingdom of Great Britain and Northern Ireland.
Virgin Islands.
Western Nigeria.
Western Pacific High Commission.
Western Region of Nigeria.
Zanzibar.

SECOND SCHEDULE (Section 27)²¹*11 of 1969, s. 4.*

1. (1) A gratuity may be granted under section 27 of this Act to any person who retires from employment, whether pensionable or not, in the public service of The Bahamas where such employment has subsisted for a period of not less than five years and such person retires or is required to retire —

- (a) (i) in the case of a male on or after attaining the age of fifty-five years; *22 of 1974, s. 9.*
- (ii) in the case of a female —
- A. who was in the employment of the Government of The Bahamas before the thirtieth day of October 1974, on attaining the age of fifty years;
- B. who enters the employment of the Government of The Bahamas after the thirtieth day of October 1974, on or after attaining the age of fifty-five years; or
- (b) on medical evidence referred to in paragraph (e) of subsection (1) of section 16 of this Act; or
- (c) upon termination of his employment in the public interest on the ground mentioned in section 17 of this Act.

(2) The amount of gratuity payable to any person in the circumstances mentioned in subparagraph (1) of this paragraph shall not, where the employment in question is an employment of emolument, exceed an amount equal to such proportion of the annual salary (including any pensionable allowance) payable to such person at the date of his retirement as is specified in the following rates, that is to say —

- (a) where such person has completed five years or more of such employment but less than ten years one fourth;
- (b) where such person has completed ten years or more of such employment but less than fifteen years two fourths;
- (c) where such person has completed fifteen years or more of such employment but less than twenty years three fourths;
- (d) where such person has completed twenty years or more of such employment but less than twenty-five years four fourths;
- (e) where such person has completed twenty-five years or more of such employment but less than thirty years five fourths;
- (f) where such person has completed thirty years or more of such employment six fourths.

²¹ The Second Schedule had effect, save for the amendment made by 22 of 1974, from 1st July, 1967 (11 of 1969, s. 1).

(3) The amount of gratuity payable to any person in the circumstances mentioned in subparagraph (1) of this paragraph shall not, where no salary or other emolument is payable in respect of the employment of that person, exceed the following rates, that is to say —

- (a) where such person has completed twenty years or more of such employment but less than thirty years \$350.00;
- (b) where such person has completed thirty years or more of such employment but less than forty years \$600.00;
- (c) where such person has completed forty years or more of such employment \$800.00.

2. A gratuity may be granted under section 27 of this Act to a person in the circumstances mentioned in subparagraph (1) of paragraph 1 of this Schedule whose employment is of a casual nature, that is to say, of a kind not requiring the services of that person on a full-time basis, and in such cases the gratuity shall be calculated at the rates specified in subparagraph (2) of the said paragraph 1 of this Schedule, but so that for the reference to annual salary in that subparagraph there shall be substituted a reference to the average annual wage paid to such person during the period of three years next preceding the date of his retirement.

THIRD SCHEDULE (Section 2)²²
APPROVED AUTHORITIES

The Bahamas Broadcasting and Television Corporation.

The Bahamas Development Corporation.

The Bahamas Electricity Corporation.

The Bahamas Information Service.

The Bahamas Telecommunications Corporation.

The Central Bank of The Bahamas.

The College of The Bahamas.

The Department of Tourism.

The Gaming Board of The Bahamas.

The Hotel Training Council.

The National Insurance Board.

The Racing Commission.

The Bahamas Agricultural Corporation.

The Hotel Corporation of The Bahamas.

The Water and Sewerage Corporation.

The Bahamas Development Bank.

Bahamasair Holdings Limited.

*3 of 1972, s. 6;
S.I. 82/1974; S.I.
86/1974; S.I. 23
of 1975; S.I. 25
of 1975; S.I. 82/
1976; S.I. 31/
1977; S.I. 34/
1977; S.I. 54/
1977; S.I. 33/
1979; S.I. 21/
1980.*

S.I. 25 of 1975.

S.I. 82 of 1974.

S.I. 82 of 1976.

S.I. 23 of 1975.

S.I. 86 of 1974.

S.I. 31 of 1977.

S.I. 34 of 1977.

S.I. 54 of 1977.

S.I. 33 of 1979.

S.I. 21 of 1980.

²² The Third Schedule had effect from 1st January, 1970 (22 of 1974, s. 10) save in respect of authorities added by Statutory Instruments. And see also *Subsidiary Legislation, Pensions*.