

BECHUANALAND PROTECTORATE.

No. 31 of 1924.

[Promulgated 12th September, 1924.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER
Entitled the Bechuanaland Protectorate Pensions
Proclamation, 1924.

Whereas it is expedient to consolidate and amend the rules and regulations concerning the granting of pensions and of superannuation and other allowances to persons employed in the service of the Government of the Bechuanaland Protectorate;

Now therefore, under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. The proclamations mentioned in the First Schedule to this Proclamation shall be and are hereby repealed: provided always that such repeal shall not affect in any way whatsoever any pension, gratuity or allowance already granted under any law so repealed, or the conditions subject to which any such pension, gratuity or allowance is payable.

PART I.

PENSIONS.

2. Any officer who is named or described in the Second Schedule to this Proclamation or who shall either before or after the date of the taking effect of this Proclamation have held any office which is named in the Second Schedule to this Proclamation or which is hereafter added by Proclamation to such Schedule shall be deemed to hold or to have held a pensionable office and shall be entitled subject to the provisions of this Proclamation to receive a pension upon his retirement therefrom.

3. (1) Save as is otherwise provided in this Proclamation, no pension shall be granted to any officer—

(a) who shall be under sixty years of age unless a medical board appointed by the Government shall report that such officer is incapable from infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

(b) who shall not have served for a period of ten years in a pensionable office.

(2) Service in an office which was pensionable under any prior law or regulation shall be deemed to be service in a pensionable office under this Proclamation.

(3) Any person appointed to the public service of the Bechuanaland Protectorate subsequent to the date of the taking effect of this Proclamation as medical officer who also exercises private practice as a physician, surgeon or accoucheur shall not be deemed to be or to have been the holder of a pensionable office unless and until he has signed an undertaking in a form approved by the Resident Commissioner to regard the claims of his private practice on his time as subordinate to those of his work for the Government of the Bechuanaland Protectorate and to hold himself liable without title to advance any claim for loss of private practice to be removed for the purposes of public service from any one place or station in the Protectorate to any other.

4. Any officer who is entitled to pension under section *two* of this Proclamation may retire or be required to retire at the age of sixty and shall retire at the age of sixty-five.

5. The service of an officer in the Bechuanaland Protectorate shall for the purposes of this Proclamation ordinarily be reckoned from the date on which he commenced to draw salary from Protectorate funds in respect of his first permanent appointment; provided that no service shall be admitted as pensionable which was prior to the attainment of the age of eighteen years.

6. (1) Acting service in a pensionable office shall when continuous with service in such an office be reckoned as service for pension.

(2) Provisional or temporary service may subject to the approval of the High Commissioner be allowed to count for pension when such service shall have been immediately followed by a permanent appointment to a pensionable office.

(3) The period during which an officer is absent on leave without salary may, subject to the approval of the High Commissioner, be counted as service on full pay for pension, provided that such leave has been granted on grounds of public policy and further provided that it does not exceed one year in all.

7. Subject to the provisions of section *nineteen* of this Proclamation the service in respect of which pensions will be granted must be unbroken except in cases where the service has been interrupted by absence on leave or by circumstances not arising from misconduct or voluntary resignation in which the High Commissioner may approve of service prior to a break of service being allowed to count for pension together with service subsequent to such break.

8. The pension to be granted in respect of any office under the authority of this Proclamation shall, subject to the provisions of section *twelve* be calculated at the rate of one-sixtieth of the annual salary and emoluments of the office for each completed year of an officer's service; provided that no addition shall be made in respect of service beyond forty years.

9. If any officer holding a pensionable office be required to retire from the public service of the Bechuanaland Protectorate owing to the abolition of his office or any reduction in or reorganization or readjustment of departments or offices of the public service of the Bechuanaland Protectorate or if he be required to retire in order to facilitate improvements in the organization of the department or office to which he belongs a pension calculated as in the last preceding section provided shall be granted to such officer notwithstanding that he is not otherwise qualified for pension under this Proclamation and in any such case an addition of one year for every two completed years of his actual pensionable service shall be made to his actual period of service for the purpose of computing his pension; provided always that the number of years to be added to the actual service shall not exceed that which if added to the age of the retiring officer would bring that age up to sixty years and that in any event the number of added years shall not exceed ten; and provided further that if in the opinion of the High Commissioner the fidelity and diligence of such an officer has fallen short of the first degree of merit such addition may be made at a lower rate than that of one year for every two completed years of pensionable service or may be withheld.

10. Where an officer has been permanently injured--

(a) in the actual discharge of his duty; and

(b) without his own default; and

(c) by some injury specifically attributable to the nature of his duty;

and his retirement is thereby necessitated or materially accelerated a pension calculated as set out in section *eight* of this Proclamation shall be granted to him notwithstanding that he has not served a sufficient period to qualify him ordinarily for pension and such pension shall be increased in proportion to the extent of his

injury by the addition of an allowance equal to the proportion of his salary and emoluments hereunder indicated, viz. :—

Where it is proved to the satisfaction of the High Commissioner that his capacity to contribute to his support is—
slightly impaired—five-sixtieths of salary and emoluments;
impaired—ten-sixtieths of salary and emoluments;
materially impaired—fifteen-sixtieths of salary and emoluments;
totally destroyed—twenty-sixtieths of salary and emoluments;

provided that his pension increased by such allowance shall in no case exceed fifty-sixtieths of his salary and emoluments at the date of the injury; and provided further that such allowance may be reduced by such amount as the High Commissioner shall think reasonable in cases where the officer's retirement is due to infirmity not arising solely from the injury sustained by him.

11. For the purpose of calculating a pension—

(1) the word "salary" shall include personal allowance and any fees paid out of the Treasury by way of salary; provided that the amount to be allowed for fees shall not exceed one-fourth of the actual salary of the office;

(2) the word "emoluments" shall include house allowance or the estimated value of free quarters rations and fuel or any allowance of a permanent character given as an equivalent of salary but shall exclude any forage or horse allowance or other travelling allowance and any temporary allowance such as acting or extra pay or bonus given as compensation for local disadvantages; provided that the amount to be allowed for house rent or for estimated value of free quarters shall be one-sixth of the salary and other pensionable emoluments of the office.

12. (1) If the officer retiring has been in receipt of the same salary and emoluments or has held a pensionable office of the same grade for not less than thirty-six months immediately preceding the date of his retirement his pension shall be calculated on the actual annual rate of salary and emoluments which he is drawing at the date of retirement.

(2) In other cases the pension shall be calculated on the average annual amount of salary and emoluments for the thirty-six months preceding the date of retirement but if the whole period of service in the Bechuanaland Protectorate is less than three years then the pension shall be calculated on the average annual amount for such period of service.

13. Pensions shall commence from the date of retirement.

14. Every officer to whom a pension shall have been granted before he shall have attained the age of sixty years shall until he has attained that age be liable to be called upon to serve in the public service of the Bechuanaland Protectorate or other public service in any office for which his previous experience in the opinion of the High Commissioner renders him eligible and the duties of which a medical board shall consider him physically fit to discharge; and if he shall decline to take upon himself such office or shall decline or neglect to execute the duties thereof being in the opinion of a medical board in a competent state of health he shall forfeit his right to the pension which had been granted to him.

15. If any officer to whom a pension has been granted under this Proclamation or under any previous law or regulation is appointed to another office in the public service of the Bechuanaland Protectorate, or other public service, then during his tenure of such office so much only (if any) of his pension shall be paid to him as, together with any pension received by him in respect of other public service and with the salary and emoluments of such office, makes up an amount not exceeding the highest pensionable salary and emoluments drawn by such officer at any time in the course of his service in the Bechuanaland Protectorate or other public service; provided that where the officer retired or was transferred from the public service of the Bechuanaland Protectorate prior to the 1st day of April 1922, the highest pensionable salary and emoluments drawn by such officer in the course of his service in the Bechuanaland Protectorate shall for the purposes of this

section be deemed to be the highest pensionable salary and emoluments actually so drawn by him plus fifty per cent. thereof; and also provided that any bonus or temporary increase, whether on pension or on the salary of the new office, granted in view of cost of living, shall be added to such pension or salary, as the case may be, for the purposes of this section.

16. Any officer who after serving for a period of at least one year in a pensionable office in the Bechuanaland Protectorate shall have been transferred to other public service shall on his final retirement after at least ten years' service receive such a pension from Protectorate funds in respect of each year and proportionately in respect of any fraction of a year of his service in the Protectorate as he would have received if he had at the moment of his transfer received a pension calculated under this Proclamation notwithstanding that his service in the Protectorate shall by itself have been less than ten years and that at his retirement he may be under sixty years of age.

17. Any officer who has been transferred from a pensionable office in other public service to a pensionable office in the Bechuanaland Protectorate and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of his entire period of public service in a pensionable office such pension as would have been payable to him if the whole of such service had been in the Bechuanaland Protectorate notwithstanding that he may not have completed ten years actual service in the Protectorate; provided however that the amount of any sum payable by the Government of any other portion of His Majesty's Dominions or of any other territory under the protection of His Majesty or in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty towards the pension of any such officer may if such sum is not paid into Protectorate funds be deducted from the pension payable to such officer out of Protectorate funds.

18. For the purposes of sections *sixteen* and *seventeen* of this Proclamation service under the British South Africa Company in the administration of Southern or Northern Rhodesia shall be deemed to be other public service.

19. (1) Notwithstanding anything contained in this Proclamation where any officer holding a pensionable office served with the consent of the High Commissioner or the Secretary of State with His Majesty's armed forces or in any other capacity connected with the state of war at any time during the period from the 4th day of August 1914 to the 31st day of August 1921 the provisions of this Proclamation shall be deemed to apply to such officer as fully and in like manner as if his service with His Majesty's armed forces or in such other capacity had in fact been service on full pay in the office held by him in the public service of the Bechuanaland Protectorate.

(2) Where an officer holding a pensionable office resigned his office in the public service of the Bechuanaland Protectorate at any time during the period from the 4th day of August 1914 to the 11th day of November 1918, in order to join or to attempt to join the armed forces of His Majesty or to serve in any other capacity connected with the state of war then prevailing and he joined or attempted to join those forces or served or attempted to serve in any other capacity connected with such state of war within three months from the date of the termination of his services by reason of such resignation and had after such attempt or within six months of his demobilization from those forces or of the 11th day of November 1918 been reappointed to the public service of the Bechuanaland Protectorate there shall notwithstanding anything contained in this Proclamation be taken into account in computing the pension or gratuity of such officer his service in the Bechuanaland Protectorate prior to the termination of such service by reason of such resignation and there shall further be taken into account as service in the office which he resigned or in any other pensionable office to which he had been reappointed, the period from the date when he terminated his services by reason of such resignation to the date of his reappointment in the public service of the Bechuanaland Protectorate, in the same way as if such

officer had during such period been serving in the Bechuanaland Protectorate on full pay. The provisions of this sub-section shall apply in the case of any officer who was temporarily employed in the public service of the Bechuanaland Protectorate at the date of his resignation notwithstanding that he did not hold a pensionable office prior to such date provided that he has fulfilled the other conditions set forth in this sub-section and provided that he is subsequently appointed to a pensionable office in the public service of the Bechuanaland Protectorate and that on such appointment he was allowed under sub-section (z) of section six of this Proclamation or any prior law to count for pension his provisional or temporary service.

20. Where any officer mentioned in the last preceding section became entitled under sections *ten* and *nineteen* of this Proclamation or any prior law to any benefits in respect of permanent injury sustained while serving with His Majesty's armed forces or in any other capacity connected with the state of war existing between the 4th day of August 1914 and the 31st day of August 1921 and where such officer in respect of the same injury has been awarded any pension or allowance under any law or regulation applicable to His Majesty's armed forces or to persons serving in any other capacity as aforesaid, such pension or allowance shall be deducted from any sum payable to him under section *ten* of this Proclamation or any prior law so that the sum payable to him thereunder shall be the amount (if any) by which the pension or allowance to which he would have been entitled in respect of such injury under this Proclamation or any prior law exceeds any pension or allowance which he may receive in respect of the same injury under any other law or regulation affecting His Majesty's armed forces or persons serving in any other capacity as aforesaid.

PART II.

GRATUITIES.

21. (1) Any officer holding a pensionable office who is compelled to retire by reason of ill-health before he has completed ten years' service shall be granted a gratuity of one month's salary and emoluments for each year of service and half a month's salary and emoluments in respect of any fraction of a year amounting to six completed months.

(2) The computation of salary and emoluments for this purpose shall be governed by sections *eleven* and *twelve* of this Proclamation.

(3) Subject to the approval of the High Commissioner any person in the employment of the Government of the Bechuanaland Protectorate who does not hold a pensionable office may on the termination of his employment after not less than ten years' continuous good service be granted a gratuity of one month's salary in respect of each year of service, provided that the amount of such gratuity shall not exceed one year's salary.

22. In the case of any native holding permanent employment under the Bechuanaland Protectorate Government whether or not in any of the offices specified in the Third Schedule to this Proclamation to whom the benefits conferred by section *thirty* of this Proclamation shall not have been extended the High Commissioner shall award—

- (a) on retirement from the service after not less than ten years' continuous good service a gratuity calculated at the rate of one-half month's pay for every year of service not exceeding thirty years in all; or
- (b) on retirement or discharge from the service in consequence of any injury or disease received or contracted in the actual discharge of his duty and without his own default such special gratuity not being less than at the rate of one-half month's pay for every year of service as the High Commissioner may deem reasonable; or
- (c) in the event of his death a gratuity to his widow, minor children or parents calculated at the rate of one-half month's pay for every year of service not exceeding thirty years in all.

23. In the computation of gratuities awarded under section *twenty-two* of this Proclamation the provisions of sections *eleven* and *twelve* of this Proclamation shall apply.

PART III.

GENERAL PROVISIONS.

24. Where an officer is removed from office on grounds of gross negligence, irregularity or misconduct or where in the event of his retirement on grounds of ill-health such ill-health is due to his own misconduct the grant of pension or other allowance or gratuity may either be withheld or granted at such lower rate than that prescribed in the preceding sections of this Proclamation as the High Commissioner may decide.

25. No pension granted under this Proclamation shall be assignable or transferable or capable of being hypothecated or liable to be attached, sequestrated or levied upon for or in respect of any debt or claim whatsoever.

26. If any person to whom a pension has been granted under this Proclamation or under any prior law is convicted before any competent court, whether within or without His Majesty's Dominions, of any crime or offence, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that the pension shall be restored with retrospective effect in the case of a person who, after conviction as above described, at any time receives a free pardon; and provided further that where a pension ceases by reason of the conviction of the pensioner as aforesaid it shall be lawful for the High Commissioner to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension to be paid to or applied for the benefit of any wife, child, or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of insolvency herein after provided.

27. If any person to whom a pension has been granted under this Proclamation becomes insolvent then such pension shall forthwith cease; provided always that in any case where a pension ceases by reason of the insolvency of the pensioner it shall be lawful for the High Commissioner from time to time during the remainder of such pensioner's life or during such shorter period or periods either continuous or discontinuous as the High Commissioner shall think fit to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension had he not become insolvent to be paid to or applied for the maintenance and personal support or benefit of all or any exclusive of the other or others of the following persons, namely such pensioner and any wife child or children of his in such proportions and manner as to the High Commissioner appears proper.

28. If any person to whom a pension has been granted under this Proclamation becomes on his final retirement from the public service of the Bechuanaland Protectorate or from other public service either a director of any company the principal part of whose business is in any way directly concerned with the Protectorate, or an officer or a servant employed in the Protectorate by any such company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that it shall be lawful for the High Commissioner on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in the Protectorate, as the case may be, to give directions for the restoration of such pension with retrospective effect if he shall see fit, to such a date as he shall specify.

29. If the death of the holder of an office in respect of which a pension or gratuity may be granted is caused by an injury occasioned without his own default in the actual discharge of his public duty and specifically attributable to the nature of his public duty the High Commissioner shall grant to the widow of the deceased, or if the deceased does not leave a widow and if his mother was at the time of the death wholly dependent upon him for her support to the mother of the deceased a pension of one-sixth of the deceased's salary and emoluments at the date of the injury and there shall further be granted to the children of the deceased a gratuity of the number of pounds sterling which is equal to the number obtained by subtracting the number of years completed by each of the children at the date of the father's death from fifteen and adding the remainders together the total gratuity not to be less than £10 or unless there are in the opinion of the High Commissioner special circumstances to justify a larger gratuity more than £50 and in the case of motherless children the High Commissioner shall grant double the amount which would otherwise be given.

30. The High Commissioner may extend any of the benefits conferred by this Proclamation either wholly or in part to any person who shall, either before or after the date of the taking effect of this Proclamation, have held any office which is named in the Third Schedule to this Proclamation and may extend any benefits conferred by section *twenty-nine* of this Proclamation to the widow, mother or children of any such person, and where such extension is granted the office held by such person shall for the purpose of such extension be deemed to be a pensionable office; provided that—

- (a) each case in which such extension is proposed shall be specially recommended to the High Commissioner both by the head of the department in which the person concerned shall have served and by the Resident Commissioner as a fit and proper case for such extension;
- (b) a pension may be granted under this Proclamation to any such person in favour of whom such extension is made though such person shall not have served more than eight years under the Government of the Bechuanaland Protectorate.

31. In this Proclamation—

the term "public service" shall mean service in a civil capacity under the Crown or under the Government of any portion of His Majesty's Dominions or of any territory under the protection of His Majesty or in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and any such other service as the High Commissioner may determine to be public service for the purpose of any provision of this Proclamation;

the term "other public service" shall mean public service not under the Government of the Bechuanaland Protectorate.

32. This Proclamation may be cited as the Bechuanaland Protectorate Pensions Proclamation 1924 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Fourth day of September One thousand Nine hundred and Twenty-four.

ATHLONE,
High Commissioner.

By Command of His Excellency the
High Commissioner.

B. E. H. CLIFFORD,
Imperial Secretary.

FIRST SCHEDULE.

LAWS REPEALED.

Proclamation No. 26 of 1906.
Proclamation No. 51 of 1907.
Proclamation No. 6 of 1908.
Proclamation No. 61 of 1908.
Proclamation No. 60 of 1910.
Proclamation No. 15 of 1912.
Proclamation No. 35 of 1913.
Proclamation No. 39 of 1914.
Proclamation No. 65 of 1914.
Proclamation No. 17 of 1916.
Proclamation No. 2 of 1918.
Proclamation No. 30 of 1919.
Proclamation No. 43 of 1921.

SECOND SCHEDULE.

Resident Commissioner.
Assistant Resident Commissioner.
Government Secretary.
Financial Secretary, Master of the Resident Commissioner's Court and Registrar of Deeds whether these posts are held by one officer or are separately held.
Accountant.
Chief Clerk to the Resident Commissioner.
Clerks to the Resident Commissioner (including any officer employed in the High Commissioner's Office and drawing his salary from the funds of the Bechuanaland Protectorate).
Resident Magistrates.
Assistant Resident Magistrates.
Clerks in the Bechuanaland Protectorate Service whose appointment as such has been or shall hereafter be notified in the *Gazette*.
Principal Medical Officer.
Medical Officers.
European Hospital Assistants and Dispensers.
Chief Veterinary Officer.
Veterinary Officers.
Stock Inspectors.
Scab Inspectors.
Controller of Stores.
European Customs Officers.
European Gaolers.
European Warders.
European Gaol Matrons.
Fence Foremen.
Assistant Imperial Secretary (in so far as his salary or emoluments has been or may be drawn from the funds of the Bechuanaland Protectorate Administration).
Auditor (in so far as his salary or emoluments has been or may be drawn from the funds of the Bechuanaland Protectorate Administration).
Inspector of Education (in so far as his salary or emoluments has been or may be drawn from the funds of the Bechuanaland Protectorate Administration).

THIRD SCHEDULE.

Carpenters.
Native Non-Commissioned Officers and Men of the Bechuanaland Protectorate Police.
Native Clerks, Interpreters, Warders (Gaol Guards), Hospital Orderlies, Drivers, Leaders, Messengers, Gaol Cooks, Labourers, Gardeners.