

BECHUANALAND PROTECTORATE.

No. 20 of 1938.

(Promulgated 1st July, 1938.)

PROCLAMATION

By His Excellency the High Commissioner
Entitled the Bechuanaland Protectorate Pensions
(Amendment) Proclamation, 1938.

Whereas it is expedient to amend the Bechuanaland Protectorate Pensions Proclamation, 1933 (No. 24 of 1933), as amended by Proclamation No. 5 of 1936, hereinafter referred to as "the principal law";

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

1. Section *two* of the principal law is hereby repealed and the following section is substituted therefor:—

"2. Subject to the provisions of any law or regulation in force in the Bechuanaland Protectorate for the time being governing appointments to the pensionable establishment of the Bechuanaland Protectorate, any person who—

(1) has been appointed to any office named in the Second Schedule to this Proclamation as originally enacted either—

(a) at the date of the commencement of this Proclamation; or

(b) after that date, such office not having ceased to be pensionable before his appointment thereto; or

(2) having been appointed to any such office, and having been transferred to other public service before that date is, at that date, serving in other public service; or

(3) is appointed to any other office which has been added to the said Schedule either before or after his appointment to that office, and has not, before that appointment, been made no longer pensionable,

shall be deemed to hold or to have held, as the case may be, a pensionable office, and shall, subject to the provisions of this Proclamation, be entitled to receive a pension upon his retirement from the public service."

2. Section *six* of the principal law is hereby amended by deleting sub-section (2) thereof and substituting therefor the following sub-section:—

"(2) Only service in a pensionable office shall be taken into account as pensionable service:

Provided that where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office one half of such period may with the approval of the High Commissioner be so taken into account."

Amendment of section 2 of Proclamation No. 24 of 1933.

Amendment of section 6 of Proclamation No. 24 of 1933.

Amendment of section 8 of Proclamation No. 24 of 1933.

3. Sub-section (1) of section *eight* of the principal law is hereby amended by inserting immediately after the first paragraph thereof the following proviso:—

“ Provided that in the case of officers falling within a category described in the Fifth Schedule to this Proclamation the rate shall be one-sixhundredth.”

Amendment of section 9 of Proclamation No. 24 of 1933.

4. Section *nine* of the principal law is hereby amended by deleting the second proviso.

Amendment of section 14 of Proclamation No. 24 of 1933.

5. Section *fourteen* of the principal law is hereby amended by deleting the words “ he shall forfeit his right to the pension which has been granted to him ” and substituting therefor the words “ the payment of his pension may be suspended until he has attained that age ”.

Amendment of section 16 of Proclamation No. 24 of 1933.

6. Section *sixteen* of the principal law is hereby amended—

(a) by deleting in sub-section (2) (ii) (c) the word “ final ” and substituting therefor the word “ highest ”;

(b) by adding the following further proviso at the end of sub-section (2) (iii):—

“ and provided further that where under sub-section (2) of section *six* one half only of any service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, one half only of the officer's aggregate emoluments during that service shall be taken into account for the calculation aforesaid ”;

(c) by inserting the following sub-section immediately after sub-section (12):—

“(13) The provisions of sub-section (2) of section *six* shall apply to the case of an officer transferred without break from a non-pensionable office in a Scheduled Government to a pensionable office in the Bechuanaland Protectorate as if his whole service had been in the Bechuanaland Protectorate.”

Amendment of section 20 of Proclamation No. 24 of 1933.

7. Section *twenty* of the principal law is hereby amended—

(a) by deleting in sub-section (1) the words “ to the persons mentioned in sub-section (3) ” and substituting therefor the words “ to his legal personal representative ”;

(b) by deleting sub-section (3);

(c) by deleting in sub-section (4) the words “ to or for the benefit of the persons mentioned in sub-section (3) ” and substituting therefor the words “ to his legal personal representative ”;

Amendment of section 21 of Proclamation No. 24 of 1933.

8. Section *twenty-one* of the principal law is hereby amended by deleting the word “ or ” at the end of paragraph (a) and substituting therefor the following words:—

“ Provided that where the service has not been entirely satisfactory the High Commissioner may in his discretion grant to him a gratuity of such amount as he may decide, not exceeding in any case the gratuity which might otherwise have been awarded; or ”

9. The following new sections, numbered *thirty-two* and *thirty-three* are hereby inserted immediately after section *thirty-one* of the principal law, the existing sections *thirty-two* and *thirty-three* being renumbered *thirty-four* and *thirty-five* respectively:—

New sections 32 and 33.

“ 32. When a pension or gratuity is granted to any officer from the funds of Basutoland or Swaziland in respect of service remunerated by salary or emoluments towards which contributions have been paid out of the funds of the Bechuanaland Protectorate, contributions towards the amount of such pension or gratuity may be paid from the funds of the Bechuanaland Protectorate to the funds of Basutoland or Swaziland, as the case may be, which shall bear the same proportion to such pension or gratuity as the annual contribution towards the said salary or emoluments at the date of the officer's retirement bears to the total annual amount of the officer's salary and emoluments at that date.”

Officers with service in Basutoland or Swaziland.

“ 33. The High Commissioner with the sanction of the Secretary of State, by a Notice published in the *Gazette*, may from time to time make additions to the list of offices specified in the Second and Third Schedules, and likewise make additions to the Fifth Schedule, and may, with the like sanction, and in a similar manner, prescribe that any office specified in the Second and Third Schedules shall no longer be pensionable, due regard being had to existing rights.”

Additions to Schedules of pensionable offices.

10. The principal law is hereby further amended by the addition of a Fifth Schedule as follows:—

Fifth Schedule to Proclamation No. 24 of 1933.

“ FIFTH SCHEDULE.

Officers of the Colonial Administrative Service assigned to the Bechuanaland Protectorate.”

11. Notwithstanding anything contained in sections *six* and *sixteen* of the principal law as amended by this Proclamation, where an officer in the service of the Bechuanaland Protectorate or in any other public service at the date of the commencement of this Proclamation shall before that date have served in provisional or temporary service, then, if it shall be to his advantage, his pension may be calculated on the conditions which would have applied if those sections had not been so amended.

Saving of existing rights if more advantageous.

12. Any officer falling within a category described in the Fifth Schedule to the principal law who is in the service of the Bechuanaland Protectorate at the date of the commencement of this Proclamation may elect not later than twelve months after that date, or within such further period as the High Commissioner may in any special case allow, to be treated as though he did not fall within such category.

Rights of officers described in Fifth Schedule to Proclamation No. 24 of 1933.

Short title and commencement. 13. This Proclamation may be cited as the Bechuanaland Protectorate Pensions (Amendment) Proclamation, 1938, 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 Twenty-first day of June One thousand Nine hundred and Thirty-eight.

WALTER C. HUGGARD,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.