

CONDOMINIUM DES NOUVELLES-HEBRIDES
NEW HEBRIDES CONDOMINIUM

ARRETE CONJOINT 17 de 1969
JOINT REGULATION 17 of 1969

JOINT REGULATION

No. 17 of
1969.

To provide for end-of-service benefits to officers in the Service of the Joint Administration of the Condominium of the New Hebrides, as from 1st January 1969.

Published: Condominium Gazette No. 285; amended by Joint Regulation No. 39 of 1973; Condominium Gazette No. 339.]

MADE by the Resident Commissioners under the provisions of paragraph 2 of Article 2 and Articles 4 and 7 of the Anglo-French Protocol of 1914.

PART I
GENERAL

1. For the purposes of this Regulation the following expressions shall have the meanings respectively assigned to them—

Interpreta-
tion.

"deceased officer's child" includes an adopted child, a child legitimated by the marriage of its parents, or an illegitimate child legally recognised by its father:

Provided that in the case of—

- (a) a legitimate child, the marriage of its parents;
- (b) an illegitimate child, the subsequent marriage of its parents or its recognition by its father; or
- (c) an adopted child, the act of adoption

was effected prior to the said officer's retirement;

"deferred pay scheme" means the scheme published in Joint Decision No. 9/1949;

"active service" means the period of service completed by an officer from the age of eighteen years and includes any period of probationary terms from the age of eighteen years if the said period is succeeded by establishment but does not include any periods of unpaid leave;

"Local Commission" means the Commission established under the provisions of Section 2 of Joint Regulation No. 12 of 1953;

"officer" means a person established in the service of the Joint Administration of the Condominium of the New Hebrides (hereinafter referred to as "the Joint Administration") by Joint Decision of the Resident Commissioners;

"orphan" means officer's child, both of whose parents are deceased;

"average emoluments" means the average basic salary received by an officer, exclusive of all allowances, over the last three years of effective service;

"retired" means retired under the provisions of paragraph (f) of

Section 3.1 of Joint Standing Order No. 1 of 1965 or Section 5 of this Regulation;

retiring age" means [fifty] years of age;

J.R. No. 39 of 1973.

Provided that the Resident Commissioners may, in respect of any officer, reduce the said age to any age not being less than fifty;

retiring gratuity" means the scheme published in Joint Regulation No. 4 of 1947;

serious offence" means an offence punishable by a competent court with more than six months' imprisonment.

2. [(1) Every officer appointed prior to the coming into operation of this Regulation shall on or before 30th September, 1973 in respect of end-of-service benefits for—

Option as to end of service benefit.

- (a) the deferred pay scheme and retiring gratuity; or
- (b) the pension scheme; or
- (c) a combination of the deferred pay scheme and retiring gratuity to a certain date followed by the pension scheme.

J.R. No. 39 of 1973.

Provided that every officer who fails to opt within the said period shall be deemed to have elected to continue to benefit from the deferred pay scheme and retiring gratuity referred to in paragraph (a).]

(2) Every officer who opts for (b) or (c) of subsection (1) of this section shall within three months thereafter opt whether he will continue to benefit from his previous service to a maximum of ten years to count as pensionable service for the purposes of this Regulation. If an officer opts for (b) or (c) he shall be required to repay to the Joint Administration 5% of the salary [received] for each year and part year of effective service to the date of option. This repayment will be offset by the amount of the officer's pension plus interest earned under the deferred pay scheme for the period claimed. [Repayment is to be effected within a period of three months from the date of option except that officers on salary below C1 may be permitted by Joint Decision of the Resident Commissioners to make repayment by equal monthly instalments over a period of up to two years of exercising their option.] Officers who opt to benefit from the pension scheme shall not also benefit from the deferred pay scheme and retiring gratuity for any period of pensionable service. Officers may however retain their rights to deferred pay and retiring gratuity for any period of pensionable service.

J.R. No. 39 of 1973.

J.R. No. 39 of 1973.

PART II

PENSION SCHEME

1. An annual deduction of 5% from an officer's basic salary shall be made as being the said officer's contribution to the pension scheme:

Contribution to Pension Scheme.

Provided that the provisions of this Section shall not apply to an officer's salary received before he reaches the age of eighteen years.

(2) Notwithstanding the provisions of the immediately preceding subsection of this section any sums paid under the provisions of the said subsection shall be reimbursed without interest to any officer dismissed under the provisions of Section 4 of this Regulation or to any person who does not become an officer within the meaning of Section 1 of this Regulation.

14. The following officers, other than those who have opted for the deferred pay scheme under the provisions of section 2 of this Regulation, or who have been dismissed under the provisions of paragraph (g) of Article 5.1 of Joint Standing Order No. 1 of 1965, shall be entitled to benefit from the provisions of the pension scheme—

J.R. No. 39
of 1973.

- (a) an officer who has reached retiring age completed five years' effective service;
- (b) an officer who has not reached retiring age but who has completed fifteen years effective service, the benefits in this case being payable on reaching retiring age:

Provided that where an officer is retired not having fulfilled the said conditions such contributions to the pension scheme as he shall have been required to make under the provisions of section 3 of this Regulation shall be repaid to him with 3% interest thereon, calculated annually.

Any officer who has been required under the provisions of section 5 of this Regulation.]

(1) The Resident Commissioners may from time to time deem fit require an officer to submit himself for examination to a Medical Commission for the purpose of ascertaining whether the officer is medically capable of properly performing his

Dis-
ablement.

Provided that where the officer required to be examined is in the New Hebrides the Resident Commissioners may require the officer to be examined by two medical practitioners of their choice.

The Medical Commission, or the two medical practitioners as the case may be, shall prepare a report containing their findings as to the result of the said examination and submit it to the Resident Commissioners.

An officer in effective service who is, as a result of the said examination, in the opinion of the Medical Commission, confirmed by the Resident Commissioners, by reason of injuries or illness to be incapable of performing his duties—

may, if the said injuries or illness were incurred or aggravated in the course of the performance of his duties, retire voluntarily or be compulsorily retired by Joint Decision of the Resident Commissioners;

(b) may, if they were otherwise incurred, similarly retire or be retired; and

(c) shall, if they were incurred as a result in the opinion of the Disciplinary Committee of a serious offence committed by the said officer, be retired.

6. (1) Subject to the provisions of the succeeding subsection of this section retirement pension shall be calculated at 2% of the officer's pensionable emoluments for each year of effective service.

Pensions.

(2) In the case of an officer retiring or being retired under the provisions of paragraph (a) of subsection (3) of Section 5 of this Regulation retirement pension shall be calculated at 4% of the officer's pensionable emoluments and for each year of effective service.

(3) In the case of an officer retiring or being retired under the provisions of paragraph (b) or (c) of subsection (3) of Section 5 of this Regulation retirement pension shall be calculated at 2% of the officer's pensionable emoluments for each year of effective service.

For the purpose of subsections (1), (2) and (3) of this section remaining part of a year of effective service shall be calculated proportionately.

Provided that for the purposes of this section in no case shall said retirement pension exceed 75% of the said officer's pensionable emoluments:

Provided that for the purposes of subsections (2) and (3) of this section the said officer shall have completed five years effective service.

7. At the request of an officer any disability pension to which he may be entitled under the provisions of Joint Decision No. 18 of 1968 may be added to his retirement pension:

Addition of disablement pension to retirement pension.

Provided that the aggregate sum thereby to be paid to the said officer shall not exceed 100% of his pensionable emoluments.

8. Where under the provisions of Section 5 of this Regulation a Medical Commission is of the opinion that by reason of injuries or illness an officer is incapable of performing his duties and the said injuries or illness resulted wholly or in part from the act of a third party the said officer may choose between the compensation offered by the third party and a pension. In the latter case he shall reimburse the Resident Commissioners any damages recovered by the said officer from the said third party howsoever recovered.

Rights of Resident Commissioners.

9. An officer to whom a pension is granted under this Regulation may opt to commute his pension and receive a pension at the rate of 75% of such pension together with a gratuity equal to five and a half times the amount of the annual reduction so made in such pension.

Commutation of pension.

10. (1) The widow of a deceased officer who has completed any years effective service shall be entitled to 41.66% of the said officer's entitlement to a retirement pension calculated on the basis of the amount of the said entitlement had he retired on the date of his decease:

Widow of a deceased officer's entitlement to pension.

Provided that in the case of the decease of a retired officer his widow shall not be entitled to a widow's pension if her marriage was contracted within a period of two years prior to the date of the said officer's retirement unless a child has been [or is] born of the said marriage in which case the widow's entitlement to a widow's pension shall be deemed to subsist notwithstanding that the period of two years aforesaid had not elapsed.

J.R. No. 39 of 1973.

(2) For the avoidance of doubt: a person in receipt of a widow's pension by virtue of the provisions of the immediately preceding subsection of this section shall, if she re-marries, continue to be entitled to receive the said pension.

11. (1) The divorced wife of a deceased officer shall be entitled to a widow's pension provided that the decree of divorce was granted upon grounds other than any fault on her part.

Entitlement of divorced wife to widow's pension.

(2) Where on an officer's decease there remains a divorced wife who is entitled to a widow's pension under the provisions of subsection (1) and who has not voluntarily renounced her share, and the widow, the entitlement to a widow's pension shall be divided equally between the said divorced wife and the said widow:

J.R. No. 39 of 1973.

Provided that, if the divorced wife aforesaid remarries prior to the decease of the said officer, she shall lose her entitlement to the widow's pension and her said entitlement shall devolve upon the widow.]

(1) Every deceased officer's child, if the said officer is entitled to a retirement pension under the provisions of Sections 4 and 5 of this Regulation, shall be entitled to a pension equivalent to 25% of the said pension as follows—

Deceased officer's child's pension.

- (a) until he attains the age of sixteen years;
- (b) until he attains the age of twenty-one years, if undergoing full-time education;
- (c) if in the opinion of the Medical Commission is suffering from such a permanent disability as to render him incapable of gaining his livelihood, irrespective of age.

Without prejudice to the provisions of the immediately preceding subsection of this section of this Regulation an eldest child shall be additionally entitled to the widow's pension:

Provided that in no case shall the said combined total entitlement to a pension under Sections 10, 11 and 12 exceed 66 2/3% of the officer's entitlement to a retirement pension.

Where there are eligible children from two marriages and the total percentage of the maximum pension of 66 2/3% being reached, then

the amount of children's pension shall be equally divided between all the children of the two families.

13. The surviving husband of an officer, being a woman, shall be entitled to 41.66% of the said officer's entitlement to a retirement pension calculated on the basis of the amount of the said entitlement had she retired on the date of her decease if, in the opinion of the Medical Commission, confirmed by the Resident Commissioners, he is suffering from such a permanent disability as to render him incapable of gaining his livelihood.

Deceased woman officer.

14. Payment of any pension payable under the provisions of this Regulation shall commence on the first day of the calendar month next succeeding that in which an officer entitled thereto ceased to be entitled to his salary. The salary of a deceased officer shall be payable to his heirs up to the end of the month in which he died. The salary of an officer who retires shall be paid to the end of the month in which retirement takes place.

Date for commencement of payment of pension.

PART III

GRATUITY

15. Where an officer reaches the retiring age but has not qualified by length of service for a pension under section 4 of this Regulation he shall be entitled to a gratuity of five times the annual amount of retirement pension which he would have been entitled to receive had there been no qualifying period of effective service under section 4. In this case the officer shall not be reimbursed such contributions to the pension scheme as provided for in paragraph (a) of section 4 of this Regulation.

Officer's gratuity.

16. The widow of a deceased officer who is ineligible for a pension under the provisions of subsection (1) of section 10 of this Regulation shall be entitled to a gratuity of five times the annual amount of widow's pension which she would have been entitled to receive had there been no qualifying period of effective service under section 10. In this case the widow shall not be reimbursed such contributions to the pension scheme that the officer has made under the provisions of Section 3 of this Regulation.

Widow's gratuity.

17. A deceased officer's child or an orphan who is ineligible for a pension under the provisions of Section 12 of this Regulation on account of the provisions of Sections 4 or 5 of this Regulation shall be entitled to a gratuity of five times the annual amount of pension which the child would have been entitled to receive had there been no qualifying period of effective service under Section 4. In this case the child shall not be reimbursed such contributions to the pension scheme that the officer has made under the provisions of Section 3 of this Regulation.

Deceased officer's child and orphan's gratuity.

PART IV

APPLICATION FOR PENSION PROCEDURE

18. (1) Every application for a pension shall be made to the Resident Commissioners by or on behalf of the person entitled there- not more than two years from (a) the date of entitlement thereto (b) the date on which such person learnt of his entitlement thereto. Application for pension.
- (2) Upon receipt of the said application the Condominium Establishment Officer shall assess and notify the applicant by registered letter of the amount of the said entitlement.
- (3) Any applicant may within a period of not more than two months from the date of the receipt of the said notification inspect the documents upon which the assessment of entitlement to a pension is based and, if dissatisfied with the said assessment, appeal in writing to the Resident Commissioners whose decision shall be final.
19. Every person entitled to a pension under the provisions of this Regulation shall be issued by the Condominium Establishment Officer with a pension card which shall carry a photograph of the said person and which shall state— Pension card.
- (a) the amount of the pension payable;
- (b) the dates on which it shall be paid.
20. The Resident Commissioners shall review the amount of retirement pension being paid on the occasion that the cost of a salaries review for serving officers shows a cumulative increase of 10% from the time of the last salaries review prior to 1st January, 1969, and shall make further reviews on each occasion that the cost of a salaries review for serving officers shows a cumulative increase of 10% from the time of the immediately preceding pension revision. Review of amount of pension.
21. This Regulation may be cited as the Joint Pensions Regulation No. 17 of 1969 and shall come into operation on the date of its publication in the Condominium Gazette. Citation.

Dated at Vila this twenty-fifth day of November, 1969.

LABROUSSE

COLIN H. ALLAN

Resident Commissioner
for the French Republic.

Her Britannic Majesty's
Resident Commissioner.