

1935.

Kenya.

No. 38177.

SUBJECT

C0533/460

Pensionable Posts of European Officers.

Previous

23234/36.

Subsequent

1936.

6.5
Pensionable Posts

A/Genl. Deputy Billing 98/10/19 _____ 19 July '35 ²
Submits for approval memo for the amendment of the
list of pensionable offices & seeks advice on the case of Mr. Armstrong
Asst. Accountant in P.W.D.

The alterations in the list of
pensionable offices, shown in the
Memorandum may, I think, be
Approved.

But the question of procedure as
regards the post of "Assistant
Accountant, P.W.D." ~~is a matter~~
requires careful consideration. The
post has never been regarded as
a pensionable office, & it is
now scheduled as a post in
the Kenya Local Civil Service.

There are 6 posts, 1 of which is
in abeyance. The remaining
5 posts are held by

Mr R.F. Delgaty Armstrong
Mr E.A. Friend
Mr J.A. Ellis
Mr W.H. Allen
Mr H.D. Witherick.

The first named was granted
pensionable status in 1923 when
serving as a Clerk in the Agric
Dept.

There is no intention of granting
pensionable status to any of the
other Asst. Accountants

Walter Witherick and Friend

have petitioned the Sgt for admission to the pensionable establishment instead of transference to the local Civil Service. Mr Withenick's petition has been rejected & Mr Friend's is now with Lord Plymouth. The result will I think be the same.

Mr Ellis left Montreal on the 24th of August to come to this County on leave prior to taking up an appt as Accountant in the Treasury, Cyprus. He is not eligible for a pension in respect of his Kenya service.

Now the main question is, how to safeguard the position of Mr Armstrong. If the post of Asst. Accountant, P.O. is gazetted a pensionable office, all sorts of complications will arise. The only way I can think of, if such course is possible, is to gazette the post as a pensionable office, with a note that "1 post only is pensionable, personal to the present holder."

C.A. Rossmore
18/31

The Governor's reply at x refers to

to be the best solution. Apart from that it might be suggested that on his ultimate retirement Mr Armstrong shall be voted a pension as if he wholly his service had been in a pensionable office.

M. Cairns Langley

2/9/35

I see no objection to approving the ^{changes} ~~plans~~ in the enclosure.

in regard to Mr Armstrong's post, there are possibilities of difficulty if either the procedure at x or that suggested in para. 6 of the despatch is adopted. The ^{note} ~~proposed~~ at x would have no legal force and it would certainly be arguable that any holder of the office who was not a probationer or agreement could claim pension in respect of service in the office. The best solution would be to designate Mr Armstrong "Senior Assistant

Mr Allen has personally accepted transference to the local Civil Service without question.

Accountant (which title does not appear from the C.O. list to be held by anyone else) and to gazette that office; it being made clear to the staff that the post will lapse on being relinquished by Mr Armstrong.

Cy Gibbs
28.9.31.

Mr Higgins

Could you do it by gazetting "One best accountant (Mr R.P.D. Armstrong)"? That would avoid trouble, & would I think, be quite legal

11.10.31

Mr Robert Gray
Would you kindly advise?

(A number question will crop up as 40270/60 in month later.)

Cy Gibbs
11.10.31

If the wording is the same get the goods. The same suggested in your minute 7.25/11 is that deal, the best

Alternately "One best accountant to be designated by the Govt" might do. I do not quite like putting names in the Gazette as in an dealing with officers & not officers

Cy Gibbs
11.10.31

Mr Flood

? Evid the Gov. the

alternatives approved of

Mr Roberts-Gray.

Cy Gibbs

10/10/31

11.10.31

11.10

above

R-291 Copy 2/11/31 on P.F. 11/11/31
Armstrong

To Kenya, Conf (1 answer) 16 OCT 1935

Personnel

Govt Paym - No. 154 Conf 18.12.35

Report that it has been decided to accept the alternative proposal in para 2 of (12) in order to safeguard the pension rights of the R.P.D. Armstrong.

DESTROYED UNDER STATUTE

The Foreman has chosen the ^{alternative} method proposed in Mr Roberts-Gray's minute of 9th October, i.e. He will gazette as a pensionable post "One Assistant Accountant, Public Works Dept., to be designated by the Foreman."

Approved

11/10/31

11/10/31

? Reviewer should be put by Cy Gibbs 15/10/31

3877/35

25

C. O.

Mr. *Evans* 26 12/10/35
Mr. *Reuter* 12

Mr. *Horn* 14-10
Mr. *Jaffes* 14/10
Sir C. Parkinson

C. D.
R 15 OCT
D 15th

Amst 18 October 1935

Sir G. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

Kenya
Conf
for.

I have the pleasure to acknowledge the receipt of Mr Wade's Confidential despatch No 98 of the 19th of July regarding the revision of Permits Offices in Kenya, and to inform you that I approve the changes indicated in facts 1 & 2 of the memorandum that accompanying *2nd* despatch.

2. As regards the position of Mr R.F.J. Armstrong, I suggest that the personal rights of this officer

could

FURTHER ACTION.

Could ~~not~~ be safeguarded) either
by ~~the~~ designating him

"Senior Assistant Accountant,
Public Works Department" and

by ~~the~~ specifying that
the ^{office} ~~post~~ (it being made clear
to the staff that the post
^{would} ~~be~~ lapse on being relinquished

by the Assistant Accountant, ^{the} gazetted
~~the~~ ^{the} gazetted

but still in case
1. One Assistant Accountant,
Public Works Department,
to be designated by the
Governor. ~~could be~~
forfeited.

I have no objection to the adoption of either course and you will
no doubt inform me
which you decide to
follow

3. ~~I should be interested to~~
~~learn which of these~~
~~alternatives you would~~
~~prefer to use.~~

Yours

(Sgd.) MALCOLM WILSON

KENYA.

No. 98.

CONFIDENTIAL.



RECEIVED
12 AUG 1935
O. O. REGY

GOVERNMENT HOUSE.

NAIROBI,

KENYA.

July, 1935.

6

Sir,

No 3.
23/234/34

Memorandum.

enclosed

With reference to Sir Philip Cunliffe-Lister's despatch No. 715 of the 4th September, 1934, I have the honour to inform you that it has become necessary to revise the list of pensionable offices in this Colony and a copy of a memorandum which was considered by the Acting Governor in Council at a meeting held on the 12th July is enclosed for your information.

The Acting Governor accepted the advice of his Council that the offices enumerated in Parts I and II of the memorandum should, subject to your approval, be gazetted as pensionable and deleted from the list of pensionable offices respectively.

The necessity for the alterations is fully explained in the enclosure and your approval of the proposals would be appreciated.

2. In this connection a difficulty has arisen in regard to the necessity of gazetting as a pensionable what is in reality a non-pensionable office in order to safeguard the pension rights of an individual officer. The office in question is that of Assistant Accountant in the Public Works Department and the officer concerned is Mr. R. F. D. Armstrong. Six posts of Assistant Accountant are provided under Item 15, Head XXVII, of the current Estimates five of which are

filled

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

filled while one of the present holders is shown as pensionable. The holder concerned is Mr. Armstrong who was originally confirmed in his appointment and admitted to the pensionable establishment when serving as a Clerk in the Agricultural Department, vide His Grace the Duke of Devonshire's despatch No. 1477 of the 23rd October, 1923.

Bols No 1
13556
EA

3. In Sir Joseph Byrne's despatch No. 255 of the 24th April, 1933, reference is made to a Sub-Committee of Executive Council which was appointed to bring the whole question of outstanding pensionable appointments throughout the Service under review. That Sub-Committee examined, inter alia, the post of Assistant Accountant in the Public Works Department and took evidence from the Director of Public Works as to the need for the grant of pensionable status to the post. As the result the Sub-Committee recorded its opinion that a strong case for the grant of this concession had not been made out and that, in consequence, it was unable to recommend that the post should be accorded pensionable status. This recommendation was subsequently endorsed by the Governor in Council.

No 1
3171/33

4. The post was included in the European Local Civil Service on its inauguration on a Provident Fund basis and thus ceased to be an "overseas" post. The office now held by Mr. Armstrong has, in consequence, not been gazetted as a pensionable one because it is feared that such action would give rise to further representations from the four remaining holders of the office, Messrs. Witherick, Friend, Ellis and Allen, to whom it is not proposed to accord pensionable status.

I would invite reference to my Confidential despatch

despatch No.50 of the 5th of April in which the claims for pensionable status of Messrs. Witherick, Ellis and Friend were discussed. I would also refer to correspondence terminating with Kenya Confidential telegram No.167 of the 10th July, regarding the recent promotion of Mr. Ellis to Cyprus, and to state that Mr. Ellis has again asked if reconsideration cannot be given to his application for his Kenya service to be counted as pensionable "particularly if any success attends the petitions submitted by the other Assistant Accountants of this (Public Works) Department".

No 28
30318 E11
W. Witherick
- - -

No 20
26799 E11
E. Ellis
- - -

No 2
10214/27

5. While there is no intention of according pensionable status to any Assistant Accountant in the Public Works Department other than Mr. Armstrong I am not clear as to the correct procedure to be adopted in the case of Mr. Armstrong; especially in view of the principle laid down in paragraph 2 of Mr. Amery's despatch No.289 of the 30th March, 1927, that there is no legal limit to the number of holders of an office who may be admitted to the pensionable establishment but that it is open for the Governor to restrict the number in practice.

6. In view of the foregoing I shall be glad to learn whether the office of Assistant Accountant in the Public Works Department should be gazetted as pensionable now in order to safeguard the pension rights of Mr. Armstrong or whether the gazetting of the post should be deferred until such time as Mr. Armstrong finally retires on pension. Should he gain promotion to some other post which carries with it pensionable status the present difficulty would automatically disappear, but

no likelihood of such promotion can be foreseen in
the near future.

I have the honour to be,
Sir,
Your most obedient, humble servant,



ACTING GOVERNOR'S DEPUTY.

EUROPEAN OFFICERS' PENSIONS ORDINANCE, 1927.
"PENSIONABLE OFFICES".
-----Part I.

Owing to certain changes having been recently made in the nomenclature of posts and owing to the creation of certain new posts in the current Estimates it is necessary to safeguard the pension rights of the individual holders of these posts, who have all been accorded pensionable status in the past. Under Section 2 of the above Ordinance it is necessary for the approval of Council and of the Secretary of State to be given to the gazetting of these offices as pensionable. Particulars of the offices in question are:-

1. Education Department. Chief Inspector of Schools.

The office was gazetted as pensionable in 1927 and deleted in 1933.

Mr. Wisdom has been promoted to this post from the 1st of January, 1935. He was previously pensionable as an "Inspector of Schools".

2. Legal Department. Chief Clerk.

Mr. Stacey has been promoted to this post from the 1st January, 1935. He was previously pensionable as an "A" Grade Clerk.

3. Local Government, Lands and Settlement. Commissioner for Local Government, Lands and Settlement.

This office was previously submitted to Executive Council in April 1934 as "Commissioner for Local Government, Lands, Settlement and Mines". In Minute No. 215 dated the 20th of April, 1934, Council advised that the grant of pensionable status to this office "should be deferred for the present as the future of the Mines Section of this Department was at present under consideration and in any case, the present holder of the post was pensionable".

The Mining Department is now separated from the Local Government and the office of Commissioner of Mines is also submitted for pensionable status below.

4. Medical Department. Senior Bacteriologist.

The post held by Captain Cormack, who has been accorded pensionable status, was previously designated "First Assistant Bacteriologist". This post is referred to in Part II of this Ordinance.

5. Mining and Geological Department. Commissioner of Mines and Senior Inspector of Mines.

On the creation of a separate Department, it is necessary to gazette these two offices as pensionable in order to safeguard the pension rights of

Mr. Hosking and Mr. Cogle who were previously occupying pensionable posts as District Officer and District Surveyor respectively.

- 6. Police Department. Officer in Charge Stores and accounts.

This is to safeguard the pension rights of Mr. Littlefair, previously pensionable as Senior Assistant Treasurer.

- 7. Posts and Telegraphs Department. Workshops Superintendent. Change of nomenclature in 1935. Estimates. Previously designated "Chief Electrical Mechanician". See Part II below.

Assistant Workshops Superintendent. Two new posts created in 1935 and two pensionable Electrical Mechanicians promoted thereto.

Assistant Telephone Engineer. This post is occupied by Mr. W.E. Smith and prior to the amalgamation of the Posts and Telegraphs Department he was a pensionable officer of the Tanganyika Service. It is therefore necessary to gazette his post as pensionable under the Kenya Ordinance to safeguard his pension rights.

- 8. Prisons Department. Superintendent Class III Approved School. A new post in the current Estimates in substitution of the post of Superintendent of Kabete Reformatory. See part II below.

Part II

The following offices at present pensionable require to be deleted from "pensionable offices" for the reasons explained:-

- 9. Administration Native Affairs.

Assistant Secretary. Post abolished.

- 10. Kabete Reformatory.

Superintendent, Kabete Reformatory. Vacant in holder of post, which now becomes Superintendent Class III Approved School under the Prisons Department. Vice Part I above.

- 11. Agriculture Department. Storekeeper (Veterinary Research). On the retirement of Mr. J. Scott, the post became a Local Service one and is not occupied at the present time.

- 12. Coast Agency. Assistant Government Commissioner. This post is a Local Service one and is occupied by an officer who has been granted Provisional Retirement.

- 13. Local Government. Lands and Settlements.

Assistant Secretary. Post abolished.

14. Medical Department.

First Assistant Bacteriologist.

Nomenclature changed to Chief Bacteriologist.
Vice Part I above.

Senior Health Officer. Post abolished.
Officers concerned are now designated
Senior Medical Officers.

15. Posts and Telegraphs Department.

Chief Electrical Mechanician. Post abolished
and replaced by workshops and electricians
Part I above.

~~SECRET~~

Local Civil
Service



Local Civil
Service



5th April, 1934.

14

Your Excellency,

We, the Sub-Committee of Executive Council appointed on the 1st March, 1934, to consider the question of the grant of pensionable status and of the conditions on voluntary transfer to the European Local Civil Service of the non-pensionable officers with more than six years' service, have the honour to state that we met on the 4th April, 1934, when we examined the terms of paragraph 4 of Secretariat Circular No. 48 of 1932 and came to the unanimous conclusion that the present tours and leave privileges published in that Circular must continue to be enjoyed by them throughout the remainder of their service.

2. Having reached this conclusion, we next formulated the following principles for application to the cases of the officers under consideration:-

- I. That officers holding posts that have been accorded pensionable status should, if themselves qualified for pensionable status on the 1st January, 1933, now be made pensionable; and if not so qualified, should be allowed to proceed on their present scales until they do so qualify. Moreover, in accordance with paragraph 3 (a) of Executive Council Minute No. 94 of the 1st March, 1934, that, in the event of officers at present serving on a pensionable basis being selected for promotion to posts scheduled for inclusion in the European Local Civil Service, corresponding to posts at present carrying pensionable status, they should, on promotion, retain their pensionable rights and other privileges at present attached to their service, and as an arrangement personal to themselves

enter the salary scale laid down under the existing regulations for the pensionable office in question.

II. That in cases where the claim for pensionable status to be attached to a post has already been considered and disallowed by the Governor in Council, no cause now exists for revising the previous decision.

III. That in cases where a limited number of posts only are pensionable the number of such posts should not be altered merely in order to meet the claims of those with more than six years' service.

IV. That the grant of pensionable status should normally be restricted to officers who had not reached the age of 40 years on first appointment.

3. In applying these principles to the cases of the individual officers concerned we adopted the following categories:-

Category A.

- (i) Cases where, subject to the recommendation of the Head of Department and the production of the customary medical certificate, the officer in question should be allowed either pensionable status together with the tour and leave conditions set out in Secretariat Circular No. 48 of 1932, quarters or house allowance, current passage privileges and the promotion prospects set out in paragraph 2 I above; or
- (ii) To transfer voluntarily to the European Local Civil Service salary scales and conditions with Provident Fund benefits and the

the tour and leave conditions set out in Secretariat Circular No.48 of 1932, but to forfeit all pension rights.

Category B.

- (i) Cases where the officer in question should be allowed either to remain on the present terms until, subject to the recommendation of the Head of Department and the production of the customary medical certificate, qualified for admission to the pensionable establishment when the conditions in Category A (i) would apply; or
- (ii) To transfer voluntarily to the European Local Civil Service salary scales and conditions with Provident Fund benefits and the tour and leave conditions set out in Secretariat Circular No.48 of 1932, but to forfeit all pension rights.

Category C.

- (i) Cases where the officer in question should be allowed either to retain the present salary scale, quarters or house allowance and the tour and leave conditions set out in Secretariat Circular No.48 of 1932; or
- (ii) To transfer voluntarily to the European Local Civil Service salary scales and conditions with Provident Fund benefits and the tour and leave conditions

conditions set out in Secretariat

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Circular No.48 of 1932.

4. In the attached schedule we have classified the officers in accordance with the foregoing categories.

We have the honour to be,
Your Excellency's
most obedient servants,

sd.H.M.-M.MOORE,

COLONIAL SECRETARY.

sd.G.R.SANFORD

ACTING TREASURER.

sd. H.E.Schwartz.

S C H E M U L E.

<u>Name.</u>	<u>Post & Dept.</u>	<u>Category.</u>
H.E.Hellyer	Carpentry Instructor Kabete Reformatory.	C
F.B.L. Butler	Grader and Inspector Agric. Dept.	A out personal to himself.
D.F.Sargent	Supdt. Maize Conditioning Plant and Cool Stores. Agric. Dept.	A out personal to himself.
O. Stenmark	Mechanic Agric. Dept.	C
G.W.Clochley	asst. Storekeeper Agric. Dept.	C
Miss R.M. Dennis	Clerk Grade C Agric. Dept.	B
D. Wyartt	} Stock Inspector Agric. Dept. }	
W.L. Lewis		
G. White		
L.E. Smith		
P.H. Poolman		
T. Harris		
G.B. Jolley		C
J. Denwett		
J.H. Ward		
A. Lambie		Instructor in Stock.
H.C.W. Guy		
C.G. Bishop		

(Note. In connection with the posts of Stock Inspector and of Instructor in Stock the suggestion is made that a small intermediary class of officer might be created with pensionable status, similar to that of Assistant Surgeon in the Medical Department, to which the more qualified and experienced Stock Inspectors might be promoted).

E.J. Hall	} Laboratory Assistant Agric. Dept. }		
W.P. Bruce		C	
F. Lyons			
R.N. Noble		} Junior Laboratory Assistant. Agric. Dept. }	
F.W. Evans			C
H.C.O. Brien	Examiner of Accounts Audit Dept.	C	

" " "

<u>Name.</u>	<u>Post & Dept.</u>	<u>Category.</u>
Miss R.E.M. Gozett	Operator Hollerith Machines Customs Dept.	C
F.P.S. Olivier	Education Officer Education Dept.	C
Miss A. Cloete	"	C
Mrs. M.L. Angus (widow)	Matron Education Dept.	A
A. Roberts	Leading Artizan Education Dept.	C
Miss W.A. Gock	Clerk Grade C Education Dept.	A
F.A. Hermitte	Clerk Grade C Education Dept.	B
R.E. Dent	Asst. Game Warden Game Dept.	C
(Note. This officer is 51 years of age)		
J.R.C. Davis	Chauffeur-Mechanic Government House.	C
A.H. Fries	Process Server Judicial Dept.	C
Miss A.M. Collins	Clerk Grade C Medical Dept.	A
S.J. Bosch	Warder Medical Dept.	}
Mrs. M.A. Bosch	Asst. Matron Medical Dept.	

(Note. We consider that if Category C cannot be applied to both these officers by reason of Mrs. Bosch being ineligible for contributing to the Provident Fund that Mr. Bosch should come under Category A as personal to himself and Mrs. Bosch should remain on her present terms of service.)

Miss C.E. Eason	} Nursing Sister Medical Dept.	}	
" M.E. Roche			
" A.A. Birch			
" M.G. Rice-Coxley			C
" I.M. Nicolson			
" S.I. Beasley			
" M.S. Neville			
" M. McLeod			

<u>Name.</u>	<u>Post & Dept.</u>	<u>Category.</u>
W.E.Grainger	Junior Laboratory Assistant. Medical Dept.	C
T.G.R.Jones		
H.M.Nefdt		
Miss O.M.Dorrell	Female Postal Clerk and Telegraphist. Posts and Telegraphs.	A
J.L.Brierley	Learner Posts and Telegraphs.	C
J.W.M.Williams	Telegraph Inspector Posts and Telegraphs.	A
M.G.Fair	Foreman, Composing Government Press.	A but personal to himself.
F.Marsden	Foreman, Machine Government Press.	C
G.E.Overton	Reader Government Press.	C
J.A.Foot	Chief Warder Prisons.	C
W.Browning	Clerk Public Works.	A
N.Y.Kilminster	Accounts Clerk Public Works.	C
(Note. This officer is 52 years of age).		
L.E.Lavers	Clerk Grade A Public Works.	A
D.K.Noble	Clerk Grade B Public Works.	B
J.A.Ellis	Assistant Accountant Public Works	C
E.A.Friend		
H.Lamont	Asst.Storekeeper Public Works.	C
C.G.J.White	Overseer Public Works.	C
T.S.Paterson		
H.S.Dalley		
F.C.Catania	Foreman Public Works.	C
J.Lang		
G.G.Dennis		C
K.V.Rasmussen		
A.G.Baker		
A.H.Frangley		

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and

<u>Name.</u>	<u>Post & Dept.</u>	<u>Category.</u>
L.R.Fisher	Accountant Registrar General's Dept.	A but personal to himself.
Miss E.Linton	Clerk Grade C Secretariat.	A
" O.B.Duncan		
" E.A.Hart		
Miss D.A.Harris	Clerk Grade C Local Govt.Lands Settlement & Mines.	B
A.F.Tate	Junior Computer Local Govt.Lands Settlement & Mines.	C
G.E.Bowles	Clerk Grade A Treasury.	A
D.Cuthbert.		