

CHAPTER 99 - PENSIONS AND GRATUITIES

A LAW TO PROVIDE FOR PENSIONS AND GRATUITIES IN THE STATE

[1 October 1979]

1. This Edict may be cited as the Pensions and Gratuities Edict.

2. In this Edict unless the context otherwise requires:—

"Armed forces of the Federation" or "armed forces" mean the Nigerian Army, the Nigerian Navy and the Nigerian Air Force;

"The Commissioner" means the State Commissioner charged with responsibility for pensions;

"Medical board" means any medical board appointed by the Commissioner or by any other person pursuant to a delegation of powers under section 21 of this Edict to assess the disablement of an officer;

"Final pay in respect of an officer whose appointment has terminated" means the amount payable to him for a month (or if he was on a daily rate of pay for thirty-one days) multiplied by 12 in respect of the last substantive rank held by him immediately before the end of his service;

"Governor" means the Governor of the State;

"next-of-kin" means those persons whose names are furnished by the deceased. Officer on his record of service kept in the Records office of the State Directorate of Establishments and Training or furnished by him in writing at any time before his death to that Directorate;

"Officer" means a person employed in a pensionable office of the State but does not include officers on temporary or contract appointment;

Pensions and Gratuities

"Pensionable emoluments" in respect of an officer means the salary attached to the last substantive rank held by the officer and does not include any allowances;

"Pensionable service" means service in a pensionable office in the Civil Service of the State which may be taken into account in computing an officer's pension under this Edict;

"Civil Service" or "Service" means serving under the government of the Federation in a civil

capacity or of the civil service of the State or such other service in any organization which may be declared by the Governor under section 30 of this Edict to be a pensionable office and service under superannuation scheme in respect of which there is a reciprocal arrangement for the acceptance of service as qualifying service under this Edict or regulation made thereunder; "qualifying service" means service in the civil service or any approved service which may be taken into account in determining whether an officer is eligible by length of service for a pension or gratuity;

"retirement" means cessation of service after an officer has served for a period of not less than 10 years up till March 31 1978, or thereafter for a period of not less than 15 years being periods respectively appointed as qualifying an officer for a pension and gratuity;

"Survivor" or "designated survivor" in relation to a deceased officer means those persons whose names are furnished by the officer on his record of service kept in the Records Office of the State Directorate of Establishments and Training or later supplied in writing at any time before his death by the deceased officer to that Directorate;

"State" means Adamawa State of Nigeria;

"termination" in relation to an officer's service means termination of service by retirement or withdrawal;

"Transfer value" means the amount paid and accepted in discharge of pension liability in respect of an officer at the time of his transfer to an approved service;

"War service" means any or all of the following.:-

- (a) Service in the armed forces after 27 May 1967 ending immediately before 16 January 1970
- (b) Service in connection with internal security operations; that is, all operations in aid of civil authority in the maintenance of law and order;
- (c) any other service as may be so declared from time to time by the President of the Federal Republic of Nigeria;

"Withdrawal" means cessation of service after an officer has served for a minimum period of 10 years but less than 15 years up till 31 March 1978, and qualifying the officer only for gratuity.

3.—(1) Subject to the provisions of this Edict any pension or gratuity granted hereunder to any person on his retirement from the Civil Service of the State shall be computed on the final pay of the person entitled thereto and in accordance with the provisions of schedule 1 to this Edict.
(2) In the computation of pensionable service and qualifying service for the purposes of this Edict.:-

- (a) where an officer served in any of the armed forces of the Federation during the period between 27 May 1967 and 15 January 1970.---

- (i) each completed year of war service shall count as two years;
 - (ii) a period of war service not exceeding four months and not included in a completed year shall count as one year; and
 - (iii) a period of war service not exceeding four months and not included in a completed year or in a period of the kind mentioned in sub-paragraph (ii) above shall count as six months;
 - (b) any period of service (other than war service) over six months and not included in a completed year shall, for the purposes of schedule 1 to this Edict as relates to officers entitled to a pension, count as one year.
- (3) Pensions and gratuity already awarded under the provisions of any other enactment relating to pensions may be recalculated in order to take account of subsection (2) above.

4. There shall be charged on and paid out of the revenue of the State all such sums of money as may from time to time be set out for the purposes of paying pensions and gratuity by an appropriation law of the State.

5.—(1) No pension or gratuity shall be granted under this Edict to any officer except on his retirement from the Civil Service of the State in any of the following circumstances, that is:—

- (a) on voluntary retirement after qualifying service of ten years up to 31 March 1977 and fifteen years as from 1 April 1977;
- (b) On compulsory retirement under the provisions of sections 4 of this Edict;
- (c) On compulsory retirement for the purpose of facilitating improvements in the organization of an officer's department or Ministry so that greater efficiency or economy may be effected;
- (d) On the advice of a properly constituted medical board certifying that the officer is no longer mentally or physically capable of carrying out the functions of his office;
- (e) On total or permanent disablement while in the service;
- (f) On abolishing of his office under section 13 of this Edict;
- (g) If he is required by the Civil Service Commission of the State to retire on the ground that his retirement is in the public interest.

(2) Where an officer retires after 1 April 1977 pursuant to subsection (1) above:—

- (a) If he has completed 10 years but not up to 15 years, he shall be entitled to pension;
- (b) If he has served for not less than 15 years he shall be entitled to pension;
- (c) if he is required to retire after 15 years qualifying service pursuant to the provisions of paragraphs (c) to (g) of subsection (1) above, he shall be entitled to pension immediately on retirement, notwithstanding that he has not attained the age of 45 years.

(3) For the avoidance of doubt:—

(a) where any person who had served for 5 years but less than 10 years had withdrawn from the Public Service between 1 April 1974 and 31 March 1978, he shall be entitled to a gratuity for one year's salary based on his last pay;

(b) where any person who had served for 10 years but less than 15 years had retired voluntarily from the Civil Service between 1 April 1974 and 31 March 1978, he shall be paid in addition to gratuity, a pension at the rate stipulated in schedule 1 to this Law.

6. Where an officer mentioned in subsection (3) of this section is required to retire, he shall immediately become entitled to his pension notwithstanding that he has not attained the age of 55 years.

7. Where, as from 1 April 1978, an officer, who has served for a minimum of three years but not up to ten years, is required to retire from the service under this section, he shall be entitled to an *ex-gratia* award or gratuity calculated on *pro rata* basis at the rate of ten *per centum* for every completed year of service.

8. Except as otherwise provided in this Edict, the payment of a pension to any officer qualified to receive a pension under this Edict shall not commence until such officer has attained the age of 45 years.

9. (1) Every officer shall retire upon attaining the age of 60 years, so however, that for officers retiring on or before 31 March, 1978 the compulsory retiring age shall be 55 years.

(2) The Commission may require an officer to retire from the service at any time after he has attained the age of 45 subject to three months' notice in writing of such requirement being given.

10. Any pension or gratuity to which an officer is entitled in accordance with the provisions of this Edict shall not be withheld or altered to his disadvantage.

Provided that where such officer is dismissed from the Service for any offence, including a breach of the Code of Conduct. Specified in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria 1979, he may forfeit such pension or gratuity.

11.(1) Where an officer dies in the service after the completion of the minimum period of qualifying service, there shall be paid to his legal personal representative or to any person designated by him during his lifetime as his survivor:-

(a) up to 31 March 1978, a gratuity equal to his one year's salary plus appropriate pension as if

he had retired at the date of his death;

(b) As from 1 April 1978, such pension and gratuity as would have been payable to him if he had retired at the date of his death.

Provided that where an officer dies before completing the minimum qualifying period of 10 years, his legal personal representative or survivor shall be paid his one year's salary as death gratuity.

(2) Any pension payable under subsection (1) above shall be paid for a period expiring at the end of five years after his death but it shall be lawful for the total to be paid forthwith.

12.(1) Without prejudice to subsection (2) below, where an officer dies in the course of his official duty and without his own fault, there shall be paid to his next of kin or designated survivors a duty to which the officer would have been entitled at the date of his death.

(2) In addition to the gratuity payable under subsection (1) above, there shall be granted:—

(a) if the deceased officer leaves a widow, a pension to her for life while unmarried and of good character, at a rate not exceeding one-third of the deceased officer's accrued pension at the date of his death; or

(b) if the deceased officer leaves a widow to whom a pension is granted under paragraph (a) of this subsection and a child or children, a pension in respect of each child; until such child attains the age of 18 years of an amount not exceeding one-ninth of the deceased officer's accrued pension; but where the deceased leaves an only child, that child shall be entitled to two-third of the deceased officer's accrued pension until he attains the age of 18 years.

Provided that where a child to whom this paragraph relates is engaged in a full time course of studies at an institution of higher learning, he shall continue to be granted the relevant pension emoluments until he attains the age of 25 years;

(c) if the deceased officer leaves a widow to whom a pension is granted under paragraph (a) of this subsection and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of 18 years, of one-sixth of the accrued pension of the deceased officer.

Provided that:—

(i) A pension shall not be payable under this subsection at any time in respect of more than six children;

(ii) A pension granted to a female child under this subsection shall cease upon the marriage of such child under the age of 18 years;

(iii) Where a deceased officer leaves more than one widow, the Commissioner may grant a pension to one or more of such widows not exceeding in the aggregate the total value of the

pension which might be granted to a sole widow under the provisions of this subsection.

(3) For the purposes of this section, the word "child" includes:—

(a) A posthumous child;

(b) A child born out of wedlock; and

(c) A stepchild or a child adopted in a manner recognized by law (including customary or Islamic law), before the death of the officer and where such child is designated a survivor as stipulated under this law.

(4) Where the deceased officer does not qualify for a pension by reason of the length of his service, his dependents shall be entitled to pro-rata pension calculated at the rate of 2 *per cent per annum* of pensionable service based on the deceased officer's final salary.

13.(1) Where as a result of re-organization in a Department or Ministry it becomes necessary to abolish an office and the holder of such office cannot be transferred to another office, the Civil Service Commission of the State may require such officer to retire on three months' notice of such requirement being given to him.

(2) Where an officer retires under the provisions of subsection (1) above, he shall in addition to the appropriate pension under schedule 3 be entitled to 10 percent of his pension and gratuity as compensation for premature retirement; so however that his total award shall not exceed 70 percent of his salary as pension and 300 percent of his salary as gratuity.

(3) Where an officer is required to retire in pursuant of subsection (1) of this section has not completed the minimum period qualifying him for a gratuity or pension, the Commissioner may grant him a gratuity equal to his one year's salary.

14.(1) Where an officer who is incapacitated in the course of his official duties has not completed the minimum qualifying service and is not, on the termination of his service, eligible for a pension under this Edict the Commissioner may, in lieu of the gratuity stipulated in the relevant schedule grant to such officer in addition to injury pension stipulated in schedule 3, pension calculated, at the rate of 2 percent of the officer's retirement.

(2) The provisions of this part of this Edict shall not apply to any officer who by reason of the injury is entitled to compensation under the Workmen's Compensation Act.

15. Any award of pension or gratuity under this Edict to an incapacitated officer may be made retrospectively, so however, that no such award shall be made, to take effect before the termination of his service.

PART II—MISCELLANEOUS

16. Notwithstanding anything to the contrary contained in any other Law, where an officer is missing and is not found within a period of one year and a board of inquiry set up by the Commissioner concludes that it is reasonable to presume that he has died, the Commissioner may pay to his next-of-kin or designated survivor.

17. Where an officer dies within five years after retirement, his next-of-kin or designated survivors shall continue to be paid, for a period expiring at the end of five years from the date of his retirement, retirement, the same pension which the deceased officer was receiving prior to his death but if the next-of-kin or designated survivor so elects, the balance of his pension at the said next-of-kin or designated survivor.

18. Where the records of service of an officer are missing, the Commissioner shall cause an inquiry to be conducted into the circumstances for which the records are missing.

19.-(1) Except as otherwise provided in this Edict, only continuous and unbroken service shall be taken into account as qualifying service caused by a temporary suspension from employment not arising from misconduct may be disregarded for the purposes of the calculation of qualifying service under this Edict.

(2) Where an officer who:-

(a) had retired from the public service without a pension on account of ill-health, abolishing of office or a re-organization in a Ministry or Department for the purpose of effecting greater efficiency or economy, is subsequently re-employed in the Civil Service; or

(b) Has left any pensionable service under any voluntary agency service and is subsequently employed in the public service; or

(c) after confirmation of his appointment in the Civil Service voluntarily resigned for the purpose of pursuing a course of studies and is subsequently re-employed in the Civil Service in such circumstances as the Commissioner considers that it is in the public interest that the break in his service should be disregarded; the officer, shall, on retirement and subject to such conditions as may be imposed by the Commissioner pursuant to subsection (3) below, be entitled to such pension or gratuity as he would have been eligible had the said break in his service not occurred prior to his re-employment

(3) Any pension or gratuity granted pursuant to the provisions of subsection (2) of the section shall be in lieu of:–

- (a) Any pension previously granted to the officer concerned;
- (b) Any gratuity previously granted to the officer concerned which is required to be refunded as a condition of the application of the officer of this section.

20.–(1) Where an officer holding an unestablished contract appointment transfers to a permanent one, the period during which he was on such unestablished, temporary or contract appointment shall count in full as qualifying service:

Provided that:–

(a) any allowance or extra pay in the form of contract in addition to salary or contract gratuity which was granted to him while holding such temporary or contract appointment shall be refunded by him in full as a condition to the application of the officer under this subsection; and

(b) In calculation of a pension or gratuity granted in accordance with the provisions of this section no account shall be taken of any period during which the officer was not in the service.

(2) Where an officer who retires or is required to retire from any public service other than on grounds of ill-health or on the abolishing of his office, is qualified for the award of pensions, he shall not be eligible for re-engagement on pensionable terms in any public office in the Federation, but he may be re-engaged on contract or temporary basis. Provided that the pension already earned shall not be reduced but no contract addition or contract gratuity may be payable to him.

21. In the computation of qualifying service, no period during which an officer was less than 15 years of age or was absent from duty on leave without pay shall be taken in account unless such absence was for the purpose of utilizing a bursary or scholarship awarded to him by the Government of the State thereof or the absence was on account of such other purpose as the Commissioner may permit.

22. Where an officer in a pensionable service transfers from the Civil Service of a State or voluntary agency teaching service within the Federation or vice-versa, he shall in respect of his service in each of the Civil Services concerned be entitled to pension or gratuity apportioned among the various Civil Services concerned in such proportion as corresponds with the duration of his service in each of the respective Civil Services concerned, so however that:–

(a) The Federal Government shall bear responsibility for any portion of his service rendered to

- a State Civil Service or a voluntary agency teaching service up to 31 March 1975;
- {b) The respective State Civil Service or voluntary agency teaching service shall bear responsibility for his service from 1 April 1976;
- (c) In the case of a non-Nigerian officer, apportionment shall be based on the statement of aggregate pensionable emoluments in certain cases.

23. Notwithstanding the provisions of section 17 of this Edict, where an officer is transferred to a Civil Service in circumstances that the officer may be entitled on retirement to a pension based on his final pay, the Commissioner may agree with the establishment concerned for the payment of a lump sum in satisfaction of the liability of the civil service in respect of the length of service of the officer at the time of his transfer.

If the lump sum is accepted by the establishment concerned, the amount shall be treated as the transfer value of the officer in respect of his right to a pension.

24.—(1) Where a person serving in any capacity within the armed forces of the Federation is transferred from the armed forces to the Civil Service of the State, the service of that person in the armed forces of the Federation shall be continuous service for the purposes of this Edict and any pension payable hereunder, shall cease to be payable to such person.

(2) Accordingly, this Edict shall have effect in relation to transfers from the armed forces to the Civil Service of the State as if all the service of the person concerned was rendered in the Civil Service of the State.

(3) Where a person serving in any capacity within the Civil Service of the State thereof without formal transfer joined the armed forces of the Federation at any time between 27 May 1967 and 15 January 1970, he shall be deemed, if not more than 3 months had elapsed between the cessation of his civil service and the commencement of his military service:—

- (a) To have been on leave from the civil service for that period on full pay;
- (b) To have held the last substantive post held by him in that office prior to his service in the armed forces; and
- (c) To have been transferred to the armed forces on the date he assumed duty in the armed forces.

25. Where the Commissioner is satisfied that:—

- (a) a sum is due to the State Government from a person to whom a pension or gratuity may or

has been awarded under this Edict

(b) an overpayment on account of any such pension or gratuity has been made to any such person by the State Government .The Commissioner may authorize the deduction from the pension or gratuity in respect of that sum or overpayment of such amounts, at such times as he may think fit, and the amounts so deducted shall be applied in or towards paying or repaying the sum or overpayment.

26.—(1) The Commissioner may by order published in the of Gazette delegate to another person or authority all or any of his powers under this Edict.

(2) The delegation of power under subsection (1) above shall not prevent the Commissioner from continuing to exercise the power if he thinks fit.

(3) The delegation of powers under this section shall not extend to the power to make regulations under this Edict.

27.—(1) An officer who wishes to retire from the service after serving for 15 years or more shall give the Commissioner three months notice of his intention to do so or he shall pay three months' salary in lieu of such notice.

(2) An officer who wishes to withdraw from the service after serving for not less than ten years shall give the Commissioner one month's notice of his intention to do so or he shall pay one month's salary in lieu of such notice.

28. (1) A pension granted to an officer under this Edict shall not exceed 70 percent of the highest pensionable emoluments earned by him at any time during the course of his service.

(2) A pension granted under this Edict shall not be less than N 360.00 per annum.

29. —(1) The Commissioner may with the approval of the Government by regulations, make provision generally for carrying into effect the provision of this Edict and in particular, but without prejudice to the generality of the foregoing, may by regulation amend the provisions of any schedule to this Edict.

(2) Whenever the Commissioner is satisfied that it is equitable that any regulations made under this section shall have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose.

30. The Governor shall by notice published in the State Gazette declare any office in the state to be a pensionable office.

31. The enactments set out in schedule 4 to this Edict are hereby repealed, so however, that pensions and gratuities already granted under the repealed enactments shall continue to be paid, or as the case may be paid as if granted under this Edict and any such pension and gratuity shall accordingly be recalculated in order to take account of the provisions of this Edict where applicable, or of the Pensions (Increase) Act 1975.

Formula for calculation of pensions and gratuity in respect of retirement between 1 April 1974 and 31 March 1978

Years of Service	Gratuity as percentage of final pay	Pension as percentage of final pay
10	100%	30%
11	110%	32%
12	120%	34%
13	130%	36%
14	140%	38%
15	150%	40%
16	160%	42%
17	170%	44%
18	180%	46%
19	190%	48%
20	200%	50%
21	210%	52%
22	220%	54%
23	230%	56%
24	240%	58%
25	250%	60%
26	260%	62%
27	270%	64%
28	280%	66%
29	290%	68%
30 and above	300%	70%

SCHEDULE 2

Formula for pension and gratuity calculation based on percentage of final salary in respect of retirement after 31 March 1977

Years of qualifying period	Gratuity as percentage of final pay	Pension as percentage of final pay
10	100%	—
11	110%	—
12	120%	—
13	130%	—
14	140%	—
15	100%	30%
16	110%	32%
17	120%	34%
18	130%	36%
19	140%	38%
20	150%	40%
21	160%	42%
22	170%	44%
23	180%	46%
24	190%	48%
25	200%	50%
26	210%	52%
27	220%	54%
28	230%	56%
29	240%	58%
30	250%	60%
31	260%	62%
32	270%	64%
33	280%	66%
34	290%	68%
35	300%	70%

SCHEDULE 3 SECTION 13(2)

Category	<i>Incapacity pension payable</i>	
	Degree of incapacitation	Incapacity pension payable
A	Not less than 70%	30% of final pay at date of injury.
B	50% to 69%	15% of final pay at date of injury.
C	30% to 40%	10% of final pay at date of injury.

SCHEDULE 4 SECTION 31

Enactments repealed

1. Pensions (Northern Nigeria New Officers) Law (Cap. 91) NN 1963.
2. Pensions (Previous Service on Contract) Law (Cap. 92) NN 1963.
3. Pensions (Special Provisions) Law (Cap. 93) NN 1963.
4. Pensions (Special Application) Law NN 26 of 1960.
5. Widows and Orphans Pensions Law (Cap. 139) NN 1963.