

GOVERNMENT NOTIFICATION.—No. 100.

Tenders will be received at this Office until Noon of Friday, the 16th instant, for repairs to Sing Wong Street and Bridges Street.

For form of tender apply at this Office.

For specification and further particulars apply at the Surveyor General's Office.

The Government does not bind itself to accept the lowest or any tender.

By Command,

ARATHOON SETH,
for the Colonial Secretary.

Colonial Secretary's Office, Hongkong, 10th March, 1888.

GOVERNMENT NOTIFICATION.—No. 101.

The following Circular Despatch and its enclosures are published for general information.

By Command,

ARATHOON SETH,
for the Colonial Secretary.

Colonial Secretary's Office, Hongkong, 10th March, 1888.

CIRCULAR.

DOWNING STREET,
24th January, 1888.

SIR,—Referring to my circular despatches of the 1st of February, 1887, and of the 6th of August, 1887, I have the honour to transmit to you, for information and publication in the Colony under your government, a copy of the Superannuation Act, 1887, and of the Rules drawn up by the Treasury under Clause 6 thereof.

I have the honour to be,

Sir,

Your most obedient humble Servant,

H. T. HOLLAND.

The Officer Administering the Government of
HONGKONG.

CHAPTER 67.

An Act to amend the Superannuation Acts, 1834 and 1859; and for other purposes. A.D. 1887.

[16th September 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—(1.) Where a person employed in the civil service of the state is injured—

Grant of gratuity or allowance to injured civil servant.

(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,

the Treasury may grant to him, or, if he dies from the injury, to his widow, his mother, if wholly dependent on him at the time of his death, and to his children, or to any of them, such gratuity or annual allowance as the Treasury may consider reasonable, and as may be permitted by the terms of a warrant under this section.

(2.) The Treasury shall forthwith after the passing of this Act frame a warrant regulating the grant of gratuities and annual allowances under this section, and the warrant so framed shall be laid before Parliament.

(3.) Provided that a gratuity under this section shall not exceed one year's salary of the person injured, and an allowance under this section shall not, together with any superannuation allowance to which he is otherwise entitled, exceed the salary of the person injured, or three hundred pounds a year, whichever is less.

A.D. 1887.

Power to grant retiring allowance to persons removed.

2.--(1.) Where a civil servant is removed from his office on the ground of his inability to discharge efficiently the duties of his office, and a superannuation allowance cannot lawfully be granted to him under the Superannuation Acts, 1854 and 1859, and the Treasury think that the special circumstances of the case justify the grant to him of a retiring allowance, they may grant to him such retiring allowance as they think just and proper, but in no case exceeding the amount for which his length of service would qualify him under sections two and four of the Superannuation Act, 1859, without any addition under section seven of that Act.

(2.) A minute of the Treasury granting an allowance under this section to any civil servant shall set forth the amount of the allowance granted to him, and the reasons for such allowance, and shall be laid before Parliament: Provided that the Treasury before making the grant shall consider any representation which the civil servant removed may have submitted to them.

Reckoning of temporary services.

3. Where a person at the time he becomes a civil servant within the meaning of this Act is serving the State in a temporary capacity, the Treasury may, if in their opinion any special circumstances of the case warrant such a course, direct that his service in that capacity may be reckoned for the purposes of the Superannuation Acts, 1834 and 1859, and this Act, as service in the capacity of a civil servant, and it shall be so reckoned accordingly.

Compassionate gratuity on retirement of person not entitled to superannuation.

4. If a person employed in any public department in a capacity in respect of which a superannuation allowance cannot be granted under the Superannuation Act, 1859, retires, or is removed from his employment, and

(a.) the employment is one to which he was required to devote his whole time, and

(b.) the remuneration for the employment was paid entirely out of moneys provided by Parliament, and

(c.) he has served in the employment for not less than seven years, if he is removed in consequence of the abolition of his employment, or for the purpose of facilitating improvements in the organisation of the department by which economy can be effected, or for not less than fifteen years if his retirement is caused from infirmity of mind or body, permanently incapacitating him from the duties of his employment,

the Treasury may, if they think fit, grant to him a compassionate gratuity not exceeding one pound or one week's pay, whichever is the greater, for each year of his service in his employment.

Provision against double pensions.

5. A person shall not be entitled to reckon the same period of time both for the purpose of a superannuation allowance under the Superannuation Acts, 1834 and 1859, and this Act, and also for the purpose of naval or military non-effective pay.

Regulations as to officers receiving half-pay or retired pay.

6.--(1.) The Treasury may, within one month after the passing of this Act, frame rules as to the conditions on which any civil employment of profit under any public department as defined by this Act, or any employment of profit under the Government of any British possession, or any employment under the Government of any Foreign State may be accepted or held by any person who is in receipt of or has received any sum granted by Parliament for the pay, half-pay, or retired pay of officers of Her Majesty's naval or land forces, or otherwise for payment for past service in either of such forces, or who has commuted the right to receive the same, and as to the effect of such acceptance or holding on the said pay or sum, and the Treasury may in such rules provide for the enforcement thereof by the forfeiture, suspension, or reduction of any such pay or sum as aforesaid, or of any commutation money or remuneration for such employment.

(2.) Such rules shall also provide for the returns to be laid before Parliament of such officers accepting employment as are affected by the rules, and shall come into operation at the date of the passing of this Act.

(3.) The rules shall be laid before both Houses of Parliament forthwith.

(4.) For the purposes of this section "British possession" means any part of Her Majesty's dominions out of the United Kingdom, and this section shall apply to Cyprus as if it were a British possession.

7.—(1.) Where any sum in respect of pay, pension, superannuation, or other allowance or annuity is due in respect either of service as a civil servant, or of military or naval service, to a person who is a lunatic, whether so found by inquisition or not, such sum may be from time to time applied for his benefit by the prescribed public department in such manner as the department think expedient. A.D. 1887.
Provision as to lunatics.

(2.) Where any annuity, whether pension, superannuation, or other allowance, is payable out of moneys provided by Parliament to a person in respect either of service as a civil servant or of military or naval service, and such person is or becomes a lunatic towards whose maintenance a contribution is made out of money provided by Parliament, then as long as the contribution is made his annuity shall be reduced by an amount equal to that contribution, and if the amount of the contribution exceeds the amount of the annuity, the annuity shall cease to be payable.

8. On the death of a person to whom any sum not exceeding one hundred pounds is due from a public department in respect of any civil pay, superannuation, or other allowance, annuity or gratuity, then, if the prescribed public department so direct, but subject to the regulations (if any) made by the Treasury, probate or other proof of the title of the personal representative of the deceased person may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the public department to be beneficially entitled to the personal estate of the deceased person, or to or among any one or more of those persons, or in case of the illegitimacy of the deceased person or his children, to or among such persons as the department may think fit, and the department shall be discharged from all liability in respect of any such payment or distribution. Distribution of money not exceeding 100l. without probate.

9. The decision of the Treasury on any question which arises as to the application of any section of this Act to any person, or as to the amount of any allowance or gratuity under this Act, or as to the reckoning of any service for such allowance or gratuity, shall be final. Decision of Treasury.

10. Nothing in this Act shall be construed so as in any way to interfere with the rights existing at the passing of this Act of any civil servant then holding office. Saving for existing interests.

11. Every warrant and minute under this Act which is required to be laid before Parliament shall be laid before both Houses of Parliament in manner provided by section thirteen of the Superannuation Act, 1859. Laying of warrant and minutes before Parliament.

12. In this Act, unless the context otherwise requires,—

Definitions.

The expression "civil servant" means a person who has served in an established capacity in the permanent civil service of the state within the meaning of section seventeen of the Superannuation Act, 1859 :

22 Vict. c. 29.

The expression "Treasury" means the Commissioners of Her Majesty's Treasury.

The expression "public department" means the Treasury, the Commissioners for executing the office of Lord High Admiral, and any of Her Majesty's Principal Secretaries of State, and any other public department of the Government; and the expression "prescribed public department" means, as respects any matter, the department prescribed for the purpose of that matter by the Treasury.

13. The Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter twenty-four, intituled "An Act to alter, amend, and consolidate the laws for regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in His Majesty's service," is in this Act referred to and may be cited as the Superannuation Act, 1834, and that Act and the Superannuation Act, 1859, are together in this Act referred to as the Superannuation Acts, 1834 and 1859. Short titles.

The said Acts and this Act may be cited together as the Superannuation Acts, 1834 to 1887, and this Act may be cited separately as the Superannuation Act, 1887.

14. The Acts set forth in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned as from the passing of this Act, without prejudice to anything previously done or suffered in pursuance of the enactments hereby repealed. Repeal.

SCHEDULE.

A.D. 1887.

Section 14.

ACTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
4 & 5 Will. 4. c. 24. ...	An Act to alter, amend, and consolidate the laws for regulating pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in His Majesty's service.	Section sixteen.
6 & 7 Will. 4. c. 13. ...	An Act to consolidate the laws relating to the constabulary force in Ireland.	Section thirty.
7 Will. 4. & 1 Vict. c. 25.	An Act to make more effectual provisions relating to the police in the district of Dublin metropolis.	Section nineteen.
2 & 3 Vict. c. 47.	An Act for further improving the police in and near the metropolis.	Section nineteen.
2 & 3 Vict. c. 93.	An Act for the establishment of county and district constables by the authority of justices of the peace.	Section eleven.
22 Vict. c. 26.	The Superannuation Act, 1859.	Section five.
22 & 23 Vict. c. 32. ...	An Act to amend the law concerning the police in counties and boroughs in England and Wales.	Section twenty-seven.
31 & 32 Vict. c. 90. ...	An Act to empower certain public departments to pay otherwise than to executors or administrators small sums due on account of pay or allowances to persons deceased.	The whole Act.
33 & 34 Vict. c. 96. ...	An Act to apply a sum out of the Consolidated Fund to the service of the year ending the thirty-first day of March one thousand eight hundred and seventy-one, and to appropriate the supplies granted in this session of Parliament.	Subsections four, five, and six of section six.
35 & 36 Vict. c. 12. ...	The Superannuation Act, 1872.	The whole Act.

RULES UNDER SECTION 6 OF THE SUPERANNUATION ACT, 1887.

Preamble.

WHEREAS by the Superannuation Act, 1887, the Commissioners of Her Majesty's Treasury are authorised to frame rules as to the conditions on which any civil employment of profit under any public department or any employment of profit under the Government of any British Possession, or any employment under the Government of any foreign State, may be accepted by any person who is in receipt of any sum granted by Parliament for the pay, half-pay, or retired pay of officers of Her Majesty's naval or military forces, regular or auxiliary, or otherwise, for past service in such forces; or who has commuted the right to receive the same or has retired with a gratuity; and otherwise, as in the said Act mentioned:

And whereas the general principle adopted by Parliament has been that where any person receiving non-effective pay on account of service to the State accepts fresh State employment, the State should benefit by some saving upon the sums otherwise payable to such person on account of his non-effective pay and of the emoluments of his fresh employment:

And whereas such saving has been heretofore effected by means of a reduction of the non-effective pay, and it appears to the Commissioners of Her Majesty's Treasury expedient that in the case of officers accepting certain civil employments of profit, such saving should be effected by reduction of the emoluments of the fresh employment instead of by reduction of the non-effective pay:

Now, therefore, the Commissioners of Her Majesty's Treasury, in pursuance of the powers conferred on them by the Superannuation Act, 1887, and of every other power enabling them in this behalf, do hereby make the following rules:—

In these rules:—

1. (a.) The expression "non-effective pay," shall mean any half-pay or retired pay, or other payment granted by Parliament for officers in Her Majesty's naval or land forces, on account of past service in some portion of those forces, but does not include rewards for distinguished or meritorious service, nor pensions for wounds. Definitions.

(b.) The expression "civil employment of profit under any public department," means any employment the profits of which are derived from any of the following funds which are hereby declared to be public funds, viz.:—

- a. The Consolidated Fund.
- b. Money voted by Parliament, or receipts taken in reduction of such money.
- c. Land or hereditary revenues of the Crown.
- d. Crown revenue of the Channel Islands.
- e. Mercantile Marine Fund.
- f. Funds of Greenwich or Chelsea Hospital.
- g. Any other fund which, either from its being administered by a public department, or from its receiving a contribution out of any of the above-mentioned funds, the Treasury may from time to time determine to be a public fund;

but does not include any such employment as the Treasury, having regard to the regulations of the Admiralty and the War Department, determine to be a naval or military employment.

(c.) The expression "naval" shall include "marine," and the expression "navy" shall include the marines.

(d.) The expression "officer" shall mean any officer who holds or has retired from a commission in any of the Imperial forces, or who has retired with a gratuity or upon non-effective pay, whether he have commuted such non-effective pay or not.

(e.) The expression "Imperial forces" means Her Majesty's Imperial, naval, or land forces.

(f.) The expression "Colonial Government" means the government of any Colony, and includes the Government of Cyprus.

(g.) Other expressions have the same meaning as in the Superannuation Act, 1887.

I.—ACCEPTANCE OF OFFICE.

2. An officer who is on the half-pay or retired list, or who has commuted his non-effective pay, or retired from the Imperial forces with a gratuity, before accepting any civil employment of profit under any public department or any employment of profit under the Government of any British Possession, or any employment under the Government of any foreign State, shall obtain the consent of the Admiralty or the War Department, as the case may be, and the continuance of such consent shall be a condition of his holding such employment; and such consent, when given, and a withdrawal of such consent, shall be communicated by the giver to the Treasury. Consent to be obtained for civil or any Colonial or foreign employment.

3. If any officer fail to obtain such consent, or if he continues to hold such employment after the consent is withdrawn, he shall be liable to have his non-effective pay suspended or reduced, either permanently or temporarily, according as the Treasury may direct, and if he have commuted such pay or retired with a gratuity, shall be liable to pay to Her Majesty the amount of commutation money or gratuity, or such portion thereof as the Treasury may direct. Penalty for non-observance of condition of Rule 2.

II.—RECEIPT OF NAVAL OR MILITARY NON-EFFECTIVE PAY by an OFFICER holding a CIVIL EMPLOYMENT OF PROFIT.

4. If any such officer as is mentioned in Rule 2 accept any civil employment of profit under any public department (other than in Her Majesty's Household), and such officer either continues whilst holding the said employment to draw any non-effective pay, or has commuted such pay, or has retired with a gratuity from Navy or Army funds, the profits of his civil employment shall be subject to abatement under the following conditions:— Abatement from civil emoluments.

(a.) If the annual amount of his non-effective pay, whether in actual course of payment or commuted or represented by a gratuity valued as herein-after mentioned, and the profits of his civil employment together exceed 400% per annum, the profits of his civil employment shall be abated by such an amount, not being less than 10 per cent. thereof, as may be determined by the Treasury in concert with the department employing the officer; provided that no abatement shall be made by reason of this rule, which exceeds the amount of the officer's non-effective pay or reduces his total emoluments to less than 400% per annum.

(b.) For the purposes of sub-section (a) the annual value of non-effective pay which has been commuted shall be the amount of such pay at the time of commutation, and the value of a gratuity shall be determined, actuarially, according to the prospects of life of the officer at the date of his receipt of such gratuity.

Exemptions from abatement.

5. (1.) It shall be competent to the Treasury, on the recommendation of the Admiralty or War Department, as the case may be, from time to time to exempt any civil employment under a naval or military department, from the operation of Rule 4, or to bring the same back within its operation.

(2.) It shall be competent to the Treasury from time to time to exempt any other civil employment from the operation of Rule 4, for such time as they may deem fit, on the ground of such employment being of a temporary or casual character, or of its profits being petty or uncertain, or of the nature of fees for piecework.

Treasury to decide doubtful cases.

6. In case of doubt arising either as to whether the funds from which the profits of a civil employment are derived are public funds or as to what is, for the purposes of Rule 4, the annual value of non-effective pay, or of a gratuity, or of the profits of a civil employment, the decision on the point shall rest with the Treasury.

Limitation of Civil Pension.

7. No such officer as is mentioned in Rule 2 shall accept any civil employment of profit under any public department, otherwise than on condition that no pension shall be granted to him in respect of that employment, which, when added to his non-effective pay, shall exceed two-thirds of the emoluments of that employment, or a total of 1,000% a year, whichever may be the greater.

But, if such officer's civil employment have been declared, by order under Section 4 of the Superannuation Act, 1859, to be a professional office, he may, subject to the above limitation of the amount of pension, elect on his retirement:

(a.) Either to retain his non-effective pay, together with a pension calculated on his actual service in the professional office, or;

(b.) to relinquish his non-effective pay, and to receive a pension calculated on his actual service in the professional office, together with the addition of years granted by the order.

Other powers of abatement reserved.

8. Nothing in these rules shall abridge or supersede any power of abatement of an officer's non-effective pay or emoluments possessed in other respects by the Treasury, or by any other public department.

Annual Return to Parliament.

9. A return shall be laid before Parliament in every year of the number of officers who, having non-effective pay, or having commuted their non-effective pay, or having retired on a gratuity from Navy or Army funds, have been granted by the Admiralty or War Department permission, under Rule 2, to hold any civil employment of profit under a public department, specifying the names of such officers and the respective amounts of their non-effective pay and their emoluments, and the abatement, if any, made therefrom, and distinguishing the officers to whom such permission has been granted since the conclusion of last return.

III.—EMPLOYMENT of NAVAL or MILITARY OFFICERS by COLONIAL GOVERNMENTS (exclusive of the GOVERNMENT of INDIA).

Officers on Active List to draw no Imperial pay.

10. If an officer on the Active List now holds, or shall hereafter accept, any employment of profit under any Colonial Government, not remunerated out of Imperial funds, he shall draw no pay, effective or non-effective, from Imperial funds so long as he holds that employment; but if his employment appears to the Admiralty or War Department to be of a nature to afford practical experience likely to be afterwards of public advantage in the event of his return to Imperial service, his service under the

Colonial Government may, if the Admiralty or War Department think fit, count towards promotion and retirement, as though it were service in the Imperial Forces, and in that case the retired pay earned by his Colonial service whilst he remains on the said Active List will in due course be chargeable on Imperial funds.

11. An officer on the Active List shall accept and hold any employment of profit under a Colonial Government on condition only that the employment does not, in the absence of exceptional circumstances, last for a period exceeding five years, and is not renewed. Duration of employment.

12. If an officer retire from the Imperial Forces whilst he holds an employment of profit under a Colonial Government, he may at once draw so much of his retired pay as was earned by Imperial service before his entering the Colonial service; and upon his retirement from the Colonial service he may also draw the retired pay earned by so much of his Colonial service as preceded his retirement from the Imperial Forces.* As to Officers retiring whilst in Colonial Service.

13. If an officer on the Retired List now holds, or shall hereafter accept, an employment of profit under a Colonial Government, his retired pay, even though earned by mixed Imperial and Colonial service, shall not be suspended in whole or in part, by reason of such employment, unless the Admiralty or War Department think fit otherwise to order; and any such order may be carried into effect. As to Officers on Retired List who accept Colonial employment.

14. Service under a Colonial Government subsequent to an officer's retirement from the Imperial Forces, shall not increase the charge for his non-effective pay upon Imperial funds. Check on increase of Retired Pay.

IV.—SAVING CLAUSES.

15. If any officer who is on the half-pay or retired list, or who has commuted his non-effective pay, or retired from the Imperial forces with a gratuity, accepts or holds any civil employment of profit under any public department, or any employment under the Government of any British Possession, and is not subject to Rule 4, or is not subject to Rules 10 to 14, both inclusive, he shall accept and hold such employment on condition that he does not receive any part of any sum granted for non-effective pay for any time during which he holds such employment, except as hereafter mentioned, that is to say:

- (a.) If the appointment is in Her Majesty's Household, he may receive the full amount of his non-effective pay:
- (b.) If the annual emoluments of the employment do not exceed three times the amount of the highest rate of non-effective pay attached to the rank, by virtue of which he claims to receive non-effective pay, such person may, with Her Majesty's pleasure to that effect, signified by the Treasury through one of Her Majesty's Principal Secretaries of State, receive the non-effective pay to which he would be entitled if he held no such employment of profit:
- (c.) Where the annual emoluments of the employment exceed three times the amount of such highest rate of non-effective pay as aforesaid, but fall short of four times such amount, the holder of such employment may, with Her Majesty's pleasure, signified in the manner aforesaid, receive so much non-effective pay as, added to the emoluments of his employment, will together make up four times the amount of such non-effective pay.

16. In the case of any officer who has accepted any employment before the passing of the Superannuation Act, 1887, the foregoing rules shall not, without his consent, apply to him so far as respects that employment, and if he does not so consent, the law and regulations applying to such officer immediately before such passing shall continue to apply to him so far as respects that employment. Saving for existing Officers.

Treasury, September 1887.

* This Rule corresponds with a concession made by the Treasury in a letter to the War Department, dated 19th November 1886, and acted upon in certain cases from not earlier than that date (*vide* pages 34-5 of Sessional Paper (85) of 1887).