

Limited Compensation Scheme

I. On 16th June, 1961, in his speech in Committee of Supply on the Vote for 1961/62 for the Office of the Chief Secretary the Acting Chief Secretary referred to the Government's policy in relation to the localisation of the Civil Service in the following terms:-

"As a result of these talks it is hoped shortly to receive from Her Majesty's Government details of a limited compensation scheme to be operated on a voluntary basis under the guidance of the Civil Service Commission and subject to the Governor's consent, related to the availability of suitable local trained personnel. The details of the scheme, it is hoped, eventually will take effect as from 1st July of this year and remain to be considered by the Government and the Staff Side prior to a visit by a Colonial Office representative which, it is expected, will take place towards the end of this month to finalize the arrangements".

II. In pursuance of this policy negotiations have taken place between Her Majesty's Government, the Staff Side of the Central Whitley Council and the Government with the object of introducing a limited compensation scheme for officers who are designated under the Overseas Service Aid Scheme and for members of Her Majesty's Overseas Civil Service who are overseas officers. The scheme will be restricted to officers in these two categories who are invited and are prepared to apply for permission to retire prematurely to promote the localisation of the Civil Service or who are required to retire as a result of constitutional changes.

III. A copy of the circular announcing the scheme together with a copy of the scheme itself is attached at enclosures A and B. The factor which should apply to officers confirmed in the permanent and pensionable establishment and with 2 years' service will be added to Appendix I on receipt from the Government Actuary. In addition the tables applying to Judges (Appendix II) and transfer grant (Appendix IV) are still awaited from the Government Actuary. These, together with Appendix I revised as indicated and with any further amendments thereto made by the Government Actuary on final consideration of certain points, will be laid before the Legislative Council on receipt.

IV. The Government proposes to accept applications from approximately 300 officers to retire under this scheme during 1961/62. Allowing for the time factor involved in giving six months notice under the scheme to individual officers it is probable that actual payments will only be made to about half this number during the period and accordingly the cost of compensation for these officers during the current financial year is estimated at £150,000 which will be shared equally by Her Majesty's Government and the Kenya Government. In

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addition the cost of commutation of pension for these officers is estimated at £85,000 excluding the share borne by Her Majesty's Government under the Overseas Service Aid Scheme. The total cost to the Government of these proposals for the financial year 1961/62 will therefore be £160,000 and a supplementary estimate for this amount has been laid.

COLONY AND PROTECTORATE OF KENYA

Office of the Chief Secretary,
P.O. Box 30050,
NAIROBI.

Chief Secretary's Circular (Service and
Training) No.4

.....July, 1961.

LIMITED COMPENSATION SCHEME

In accordance with the provisions of Command Paper 1193 and in agreement with Her Majesty's Government a limited scheme of retirement benefits has been prepared and will be introduced forthwith. This scheme covers pensionable overseas officers selected for appointment before 1st July, 1961, who are members of Her Majesty's Overseas Civil Service or who are designated under the Overseas Service Aid Scheme. It also applies to any officers in these categories required to retire on either loss of office as a result of constitutional change or reorganisation for the same reason. A copy of the scheme is attached.

2. The provisions of the scheme will be embodied as soon as possible in an Order in Council, but in the interval this circular and the scheme as set out in the annexure hereto will enable the benefits therein to be applied administratively in suitable circumstances.

3. The primary object of the limited scheme is to permit "eligible" officers to retire voluntarily, when their posts are required for the localisation of the Civil Service. The scheme will eventually be superseded by a general compensation scheme at a later stage of constitutional development. It is expected that the details of a general scheme will be negotiated prior to, and announced on, the eve of the grant of full internal self government.

4. The introduction of the scheme, which does not constitute a general invitation to eligible officers throughout the Service to apply for premature retirement will be operated in accordance with the following principles. When suitable local candidates become available for appointment in excess of established vacancies to a cadre in a particular type of service, the Government will invite "eligible" officers of that cadre, who wish to be considered for premature retirement on compensation terms, to submit their names. A cadre

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To:- All Permanent Secretaries
All Heads of Department
All Provincial Commissioners (with sufficient copies for
District Commissioners)
The Officer-in-Charge, Nairobi Extra Provincial District.

would imply all officers serving in a particular type of post for which vacancies are sought, and would include not only all officers serving on the career scales in such posts, but would also include some officers serving in the normal promotion posts above those scales. The names of those eligible officers of a cadre, who volunteer to retire in such circumstances, will be forwarded with recommendations to the Civil Service Commission by the Permanent Secretary of the responsible Ministry or by any Head of Department not responsible to a Ministry. In the selection of officers, who will be permitted to retire under the scheme with compensation, discretion will rest with the Civil Service Commission to tender advice to His Excellency the Governor which will take into account the wishes of the individual officer provided that they do not conflict with the public interest.

5. Eligible officers, who have service with more than one scheduled Government and who have less than 10 years total pensionable service are advised to ascertain from the Permanent Secretary to the Treasury their entitlement to pension under paragraph 3 of the Scheme before applying for permission to retire prematurely under the Scheme.

6. Where any eligible officer has an outstanding car advance at the date of his retirement on pension under the scheme and where that officer desires to retain that car, the Government agrees, if so requested, to take over the outstanding advance as from the conclusion of the officer's leave pending retirement. The Government will then continue the monthly payments on the officer's behalf until the outstanding advance has been fully repaid charging interest at the rate of 5% on each payment made. As each annual instalment of compensation falls due the payments made plus interest charged will be deducted from such instalment (under the Scheme the officer will receive interest at the rate of 5% on outstanding instalments).

7. Similarly, where any eligible officer proceeds on leave pending retirement under the scheme and desires assistance towards the payment of income tax due after the expiry of his leave, the Government agrees, for the remaining period of his liability for East African income tax in respect of any tax year which includes Government employment, to take over the payments of income tax due during that period. These payments, on which interest at the rate of 5% would be charged, would be recovered from the officer when the next annual instalment of compensation became payable.

8. Where the officer opts for the concessions in the preceding two paragraphs, these concessions will be granted to the extent that the instalments of compensation cover the cost to the Government. It must be understood that these concessions relate only to the limited compensation scheme and do not constitute

a precedent in respect of any general scheme, which may be introduced later.

9. The opportunity is taken of reminding "eligible" officers of the following provisions of the Widows' and Orphans' Pension Scheme. This Scheme provides for an officer who retires from the Service and who is under 49 years of age -

- (i) to continue to contribute at the rate applicable on the date of his retirement;
- (ii) to contribute at the rate applicable to his pension which will result in a correspondingly reduced Widows' and Orphans' pension; or
- (iii) to stop contributing at the date of his retirement which will result in a still smaller Widows' and Orphans' pension.

Any officer, who may require information in this connection, is invited to apply to the Permanent Secretary to the Treasury.

Officers who retire from pensionable service are requested to notify the Permanent Secretary to the Treasury which course they prefer. Payments due after retirement are deducted from pension at source.

10. The following arrangements will apply to officers who retire from the public service in Kenya in accordance with the provisions of the scheme and subsequently take up pensionable employment in the Home Civil Service:-

- (i) Officers who enter the Home Civil Service through a competition conducted by the Civil Service Commissioners.

These officers will not be required to refund their compensation if there is a break in service between the last day of their pensionable service in Kenya and the first day of their pensionable service in the Home Civil Service. If, however, an officer takes up a pensionable appointment in the Home Civil Service without a break in service he may be regarded for purposes of the Kenya pensions laws as having transferred to the Home Civil Service. Subject to the provisions of paragraph 8 of the scheme, such an officer will be required to refund any instalment of compensation he has received and will not be eligible for a Kenya pension until his final retirement from the public service.

- (ii) Officers who, having formerly been pensionable members of the Home Civil Service, return to the Home Civil Service otherwise than as a result of a competition conducted by the Civil Service Commissioners.

Any such officer who reverts to the Home Civil Service within twelve months of the expiry of his retirement leave from Kenya shall receive either a transfer grant provided for in paragraph 8 of the scheme

or half the compensation to which he is entitled, whichever is the greater, and will be required to refund any instalment of compensation in excess of this amount, which he may already have received. The amount of refund will be shared equally between the Kenya Government and the United Kingdom Government.

The Government of Kenya is prepared, at the request of any officer who may secure a pensionable appointment in the Home Civil Service in the circumstances described in (i) above, to terminate that officer's leave before it would normally expire, so that there may be a break in his service.

11. The scheme does not apply to non-designated officers, who converted without inducement under the Lidbury Revision but who were allowed to retain their overseas passage privileges (as distinct from sabbatical passage privileges). Negotiations are continuing between the Official and the Staff Sides of the Central Whitley Council in an endeavour to formulate a scheme to be applied to these officers in the event of their posts being required for localisation and a further circular on this subject will issue as soon as possible. Any such scheme as may be introduced on their behalf will be effective from the same date as the scheme covered by this circular.

12. Where an "eligible" officer under the scheme is required in accordance with the provisions of paragraph 9 of the scheme to retire either during 1961 or subsequently as a result of constitutional change and where that officer is also an owner-occupier of a house, the Government agrees to consider on an ad personam basis any representations which that officer may make in connection with his ownership of that house.

13. Permanent Secretaries and Heads of Departments not responsible to Ministries should arrange for the contents of this circular and of the annexure hereto to be brought to the attention of "eligible" officers and officers in the class referred to in paragraph 11 above.

E.N. GRIFFITH-JONES
ACTING CHIEF SECRETARY.

KENYASCHEME OF RETIREMENT BENEFITS FOR PENSIONABLE
OVERSEAS OFFICERS WHO RETIRE IN THE INTERESTS
OF LOCALISATION1. Date of introduction of the Scheme

The Scheme shall come into operation forthwith, subject to the provisions of paragraph 9.

It is proposed that the details of this Scheme should be embodied in an Order in Council but if an Order in Council cannot be made by the "operative date" the Scheme will be brought into effect administratively on the "operative date".

2. Definition of officers to whom the Compensation Scheme applies.

Pensionable overseas officers selected for appointment before the 1st July, 1961 who are members of Her Majesty's Overseas Civil Service or who are "designated officers" under the Overseas Service Aid Scheme may retire under the compensation scheme if their posts are required in the interests of localisation or if they are directly superseded for promotion by local officers in pursuance of the policy of giving preference to local officers in promotion, or may be retired under the compensation scheme on loss of office as a result of constitutional change. These officers are referred to hereinafter as "eligible officers" for the purposes of this Scheme.

Officers aged 55 or over, judges aged 62 or over, officers seconded, or temporarily transferred, to Kenya from other public service and officers on leave pending retirement on the "operative date" (except those called upon to retire before that date as a result of constitutional change) shall not be eligible officers.

3. Eligibility for Pension.

Any eligible officer who retires from the pensionable service under this Scheme may receive such pension from the Government of Kenya as has been earned by his pensionable service in Kenya, irrespective of whether his length of service is less than 10 years and whether he has attained the age of 50 at the date of his retirement. Where an officer has other scheduled service, his eligibility for pension in respect of his other service will depend on the pension laws relating to that service.

4. Calculation of compensation.

Any officer who is permitted to retire under this Scheme, will be eligible for compensation to be calculated and paid as set out below. Compensation shall be calculated as a lump sum in accordance with Tables drawn up by the Government Actuary in the United Kingdom. These Tables take account, inter alia, of length of service up to ten years. The maximum amount of compensation payable under this Scheme to any officer will be £12,000.

Compensation will be calculated by multiplying the officer's pensionable emoluments at the date taken for calculation by the factor appropriate to his age and length of service at that date. Any officer acting in a superior post, and required while so acting to retire under paragraph 9 of the Scheme, will be confirmed in that post so that his pensionable emoluments in that post will be the pensionable emoluments on which his benefits under the Scheme will be calculated, provided he has so acted

for a continuous period of not less than six months to the satisfaction of the Government. The Tables shall be interpreted on the basis of completed months of both age and service only where this is to the advantage of the officer concerned. In all other cases the compensation factor of an officer shall be based on completed years of service and his age at his last birthday before the date taken for calculation. The date taken for calculation shall be the date most favourable to the officer between the date on which he was given permission to retire and the date of his retirement.

Non-pensionable service, followed by pensionable service, shall count for compensation to the same extent as it counts in the computation of pensions. An officer who is permitted to retire will be given a statement showing his entitlement to compensation.

5. Method of Payment.

The lump sum compensation calculated in accordance with the Tables in Appendices I and II shall be payable over a period of five years in six instalments of which the first shall be payable three months before the date on which the officer proceeds on retirement leave. The second instalment shall be paid six months after the date on which the officer proceeds on retirement leave. Subsequent instalments will be payable at intervals of one year from the date of the second instalment, except that an officer who reaches the age of 55 (or, in the case of a Judge, 62) shall be paid forthwith the balance of compensation due to him.

Where the compensation due is £1,000 or less, it will be payable in full as soon as the first payment is made. Where it exceeds £1,000 the initial payment will be £1,000 or one-sixth of the compensation whichever is the greater and subsequent payments will be in equal instalments of the balance due. Where any instalment is less than £400 but the compensation payable exceeds this amount, the instalment will be increased to £400 and if, on the occasion of any payment the balance due is less than £100, it will be paid in full forthwith.

Compensation will be paid at the option of the officer in Kenya or in the United Kingdom. Any officer who wishes to have his compensation paid in any other country should submit an application to the Permanent Secretary to the Treasury for consideration.

6. The giving of notice by eligible officers.

A minimum of six months notice of retirement under the Scheme will be the normal rule, provided that a shorter period of notice may be accepted by mutual agreement between the officer and Government. An officer who is permitted to retire under the Scheme and proceeds on leave pending retirement prior to the completion of a normal tour of 24 months may be granted the leave he would have earned had he completed a normal tour. In exceptional cases the Government will be prepared to consider granting six months' retirement leave to an officer whose earned leave falls short of that amount.

7. Payment of interest.

Interest will be payable at 5% per annum on the outstanding balance due after the first payment has been made to every eligible officer given permission to retire.

8. Arrangements on transfer.

If an eligible officer who has been given permission to retire is offered, before the date of his retirement, a transfer (within the meaning of Colonial Regulations) to permanent and pensionable public service scheduled under the pensions laws without a break in

his service, and if the officer accepts such a transfer, he will be liable to return any instalment of compensation paid to him; and it will be for the Government of Kenya to satisfy itself as to the arrangements made with the officer for this repayment. Separate provision will be made for a suitable grant to an officer who accepts a transfer (as defined above) to a post carrying lower pensionable emoluments than his existing post.

9. Officers who are required to retire during 1961 or subsequently as a result of constitutional change.

Any eligible officer who is required to retire during 1961 or subsequently as a result of constitutional change will be entitled to the following benefits in lieu of abolition of office terms:-

- (i) The compensation due to him will be paid in one lump sum.
- (ii) He will receive (before or as soon as possible after his departure on leave prior to retirement) a disturbance grant equal to one quarter of his annual pensionable emoluments and this will not be liable to income tax either in the United Kingdom or in Kenya.
- (iii) If he has less than six months earned leave standing to his credit when he finally leaves Kenya, he will be granted additional leave to bring his period of leave up to a total of six months.
- (iv) His pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement; and the "averaging" provisions of the Pensions Ordinance will not apply to him.

10. Death of an eligible officer

The dependants or the legal personal representatives of an eligible officers who has been given permission to retire under this Scheme and who dies while still serving (or while on leave prior to retirement) and before all payments of compensation due to him have been made, will receive the outstanding balance of compensation and the death gratuity for which provision is made in the Pensions Ordinance.

Where an officer dies after he has retired, his dependants or legal personal representatives will receive the outstanding balance of any compensation due to him.

11. Commutation of pensions

Officers retiring under this Scheme shall be entitled to commute up to one-quarter of their earned pension in respect of overseas service (whether that pension has been earned solely by service in Kenya or partly by service in Kenya and partly by service elsewhere) in accordance with the Special Table of Commutation Factors which is set out in Appendix III.

12. The Judiciary.

A special Table of Compensation Factors will be drawn up by the Government Actuary in the United Kingdom in respect of Judges, who have a retiring age later than that of other members of the Public Service.

13. Incidence of Income Tax

Instalments of lump sum compensation, disturbance grants where payable, and capital sums payable by way of commuted pensions, will

not be liable to income tax either in the United Kingdom or in Kenya.

Interest payable on the balance of compensation due to an officer (after the initial payment has been made) may be liable to income tax either in the officer's country of residence or in Kenya, or in both, according to the circumstances of the officer and subject to the provisions of any Double Taxation Agreement where applicable.

14. "Abolition of office" terms

As an alternative to these compensation arrangements every officer who retires under this Scheme may opt for "abolition of office" terms.

APPENDIX I

Kenya Compensation Factors - Designated Officers

Age of officer	Factor when length of service is								
	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21		.16							
22		.19	.25						
23		.21	.28	.36					
24		.24	.32	.40	.49				
25		.27	.36	.46	.55	.64			
26		.31	.41	.51	.61	.71	.82		
27		.34	.45	.56	.68	.79	.90	1.02	
28		.38	.50	.63	.76	.88	1.01	1.13	1.26
29		.42	.56	.70	.85	.99	1.13	1.27	1.41
30		.48	.64	.80	.97	1.13	1.29	1.45	1.61
31		.56	.75	.94	1.12	1.31	1.50	1.68	1.87
32		.65	.87	1.08	1.30	1.52	1.74	1.95	2.17
33		.75	1.00	1.26	1.51	1.76	2.01	2.26	2.51
34		.86	1.15	1.44	1.72	2.01	2.30	2.58	2.87
35		.97	1.29	1.61	1.93	2.25	2.58	2.90	3.22
36		1.06	1.41	1.76	2.12	2.47	2.82	3.18	3.53
37		1.14	1.52	1.90	2.28	2.66	3.04	3.42	3.80
38		1.21	1.61	2.01	2.41	2.81	3.22	3.62	4.02
39		1.26	1.68	2.10	2.51	2.93	3.35	3.77	4.19
40		1.29	1.72	2.14	2.57	3.00	3.43	3.86	4.29
41		1.30	1.73	2.16	2.60	3.03	3.46	3.90	4.33
42		1.29	1.72	2.14	2.57	3.00	3.43	3.86	4.29
43		1.25	1.66	2.08	2.50	2.91	3.33	3.74	4.16
44		1.18	1.58	1.97	2.36	2.76	3.15	3.55	3.94
45		1.10	1.47	1.84	2.20	2.57	2.94	3.30	3.67
46		1.01	1.35	1.69	2.03	2.37	2.70	3.04	3.38
47		.92	1.23	1.54	1.85	2.16	2.46	2.77	3.08
48		.83	1.11	1.39	1.67	1.95	2.22	2.50	2.78
49		.74	.99	1.24	1.48	1.73	1.98	2.22	2.47
50		.64	.86	1.08	1.29	1.50	1.72	1.94	2.15
51		.54	.72	.90	1.09	1.27	1.45	1.63	1.81
52		.43	.57	.72	.86	1.00	1.14	1.29	1.43
53		.30	.40	.50	.60	.70	.80	.90	1.00
54		.15	.20	.25	.30	.35	.40	.45	.50
55 or more		NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL

Note: The factor corresponding to the officer's age and service in years and completed months should be obtained by interpolation.

APPENDIX III

Kenya Commutation Factors - Designated Officers

Commutation of Pension under Compensation arrangements

Table showing the lump sum to be paid for the commutation of each £1 per annum of pension.

Age of Officer	Factor	Age of Officer	Factor
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53	12.50
39	15.24	54	12.50

Note:- The factor corresponding to the officer's age in years and completed months should be obtained by interpolation.