

1922-23

KENYA

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C. O
1774

FROM
GOVERNOR
KENYA DON

CONF
316

DATE
29TH NOVEMBER 1922

REC
RF 9 JAN 23

FOR CIRCULATION

SUBJECT

PERMISSIONS OF NON-EUROPEAN OFFICIALS
BASIS OF PAYMENT

Submit proposals.

Mr. *Dunnell*
Mr. *Machtig* 27/1/23

Mr. *Dottman* 27
Mr. *Stackey* 130
Mr. *Grindis*

Sir H. Lambert

Sir H. Reed 30/1/23

Sir J. Masterton Smith

Mr. Wood

Mr. Churchill

389

Previous Paper

305
33058
22 N.Y.

MINUTES

within

[Large handwritten scribble]

Treas. reminded on 16th
May 1923 - see 24/22378/23
S. H.

Treasury Cont. 5/16-1923
Amat. conf. (12 cont. 25)
Trans. 100/25

Subsequent Paper

Treas
51801
23

PAYMENT OF PENSIONS TO NON-EUROPEAN
PENSIONERS FROM KENYA, UGANDA AND TANGANYIKA
TERRITORY.

The points at issue are set out in the despatches on 6397/22 Uganda. The pensioners may be divided into the following classes:-

These pensions expressed in sterling and calculated as if on the basis of £1 (Rs.15 of salary). I Pensioners whose pensions were granted before the change in the currency and who are

- (a) resident in Kenya, Uganda or the Tanganyika Territory;

(b) resident in India or Zanzibar.

These pensions expressed and calculated in rupees or shillings. II Pensioners whose pensions were granted after the change in the currency and who are

- (a) resident in Kenya, Uganda or the Tanganyika Territory;

(b) resident in India or Zanzibar.

The present system of payment, and the local Government's proposals are set forth in the following table:-

	I (a)	I (b)	II (a)	II (b)
Present rate	20 shillings to £1 of pension	15 rupees to £1 of pension	2 shillings to 1 florin of pension	1 rupee to 1 florin of pension
Kenya proposal	20 shillings to £1 of pension + Local Allowance.	as above	1/4d to 1 florin of pension	1/4d to 1 florin of pension
Uganda proposal	as Kenya	as above	as at present	Rupae equivalent of pension converted at current rate of exchange
Tanganyika proposal	as Kenya	as above	as at present	as at present

It is now possible to consider each class in turn in the light of the recommendations received.

I (a). In spite of the unanimity of the local Governments, this is not altogether simple. As noted in paragraphs 4 and 5 of the despatches on 6397/22, while the legal position is that nothing more than 20/- to the £1 need be paid, the assessment of pensions in sterling was carried out merely as a matter of convenience, and the pensions were, in fact, rupee pensions calculated on rupee salaries and were certainly locked upon by the pensions as such.

Of course, if a 6th cut is made in salaries and the Kenya proposals as to Class II(a) are approved, the extra difficulty of dealing with Class I(a) as proposed, need hardly be bothered about, as it would add but a drop to the ocean of discontent; but assuming that those proposals are not approved, it would seem very hard to take this drastic action with Class I(a), particularly as their pensions are less than those of Class II pensioners of similar standing and length of service, owing to the revision of salaries. The class is one which will disappear as time goes on, and it will probably be best, if Treasury will agree, to leave it to die out in peace.

I(b). This class fortunately presents no difficulty, so long as the Indian rupee remains steady in the neighbourhood of 1/4d sterling. In the event of a rise in the rupee the considerations set out in the case of Class I(a) would apply, and the action to be taken would have to be guided by whatever was done in the case of that class. It would, however, be much more difficult in the case of I(b) to justify paying the man less rupees than he had before than to shift the I(a) man on to a shilling basis.

II(a)

II(a). It seems impossible to accept the Kenya proposal. When a pension has once been granted in florins or shillings and the recipient continues to live in one of the shilling-using Dependencies there are the strongest possible arguments for continuing to pay him the legal equivalent of the pension awarded to him. Anything else would be a moral breach of faith even if it is conceded that a pensioner has no legal right to pension, and the proposal could only, I think, be accepted if we agree on grounds of financial necessity, to the proposed out in the salaries of Asiatic Civil Servants.

II(b). The question so far as it relates to this class is the most difficult of all. It is in many ways analogous to the question of payment of leave salaries. In the latter case we have ruled recently that in the absence of specific provision to the contrary leave salaries must be converted, with retrospective effect to the time of the change of currency, into rupees at the current rate of exchange. This decision materially weakens the case for the present practice as to pensions. It is necessary to consider, first, as regards existing pensioners what is to be done as regards the future, and, if the Uganda proposal is accepted, whether it is to have retrospective effect; and secondly whether in the case of future pensioners specific provision is to be made, as in the case of leave pay, that payment in India will be on the basis of one rupee for two shillings.

As regards existing pensioners, I think that so far as there can be said to be a contract as to pensions, the case for the Uganda proposal is as strong as it was in the case of leave pay. There is nothing in the Kenya Code of Regulations to qualify

qualify the position that pension is so many sixtieths of personal ^(i.e. former shilling emoluments) emoluments, and in the absence of any express qualification I think that the payment of one Indian rupee for two shillings of pension is difficult if not impossible to defend. On the other hand I have seen no protest from any pensioner against his treatment (the position as to pensions has been made a grievance by members of the existing staff in their various petitions and telegrams about leave pay), and it is possible that the pensioners not having expected anything better than they have got are more or less content. There is however also the possibility that they are discontented but inarticulate owing to their unorganised and scattered about India. In any case the pensioners' complaints should not affect the matter if it is the case of the leave pay, that the pensioners' conditions should be such that before anyone is permitted to impose a new condition upon all future pensioners, that the Uganda proposal is accepted for pensioners, would mean altering to their detriment the conditions of service of officers already in the service. The line of action which we have hitherto been scrupulous to avoid. Such a condition could properly be imposed only upon officers who enter the service or are promoted hereafter; and the justice of imposing such a condition even in these cases is open to argument, since a pension should, on general grounds, be a definite amount based upon emoluments and payable in the currency in which the emoluments are expressed or the equivalent thereof. ^{(in the currency of the country in which the} It is not quite on the same basis as leave pay, which can be altered from time to time by revision of the conditions of service and does not rest, like pension practice, upon Acts of Parliament.

I feel little doubt that the Uganda view is correct with regard to all pensioners, past or future, whose pensions have been or will be calculated on florin or shilling rates of pay, and I would suggest that it be adopted with retrospective effect from 21st July 1920, when the Currency Order in Council came into force, in the same way as the leave pay, on the understanding that any gains in respect of the rupee being over 2/- may be deducted from the arrears payable in respect of the time when the rupee has been below 2/-.

If the above views meet with agreement it will be ^(in the first place) necessary to write to the Treasury putting the case for no reduction of the present rates ^{with the} ~~discuss~~ ^{in the reduction of European local allowance. If} (the Treasury agree to that we can then write to the Governors laying down the methods in which the different classes are to be treated, on the lines of this memorandum, subject to any modifications of what is proposed here which may be rendered necessary by the decision, whatever it may be, on the question of a general cut in Asiatic salaries.

C. J. J. 26.1.23

J. G. H. 26.1.23

and J

Jan 27 1923

W. A. S. 27.1.23

C. S. 20.1.23

Write to Treas. accordingly

at once

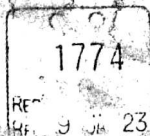
H. J. R.

30.1.23



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

29th November, 1922.



My Lord Duke,

*Recd
6397
22
11/29/22*

With reference to Mr. Churchill's Confidential despatch of the 27th of February, 1922, and Your Grace's reminder dated the 1st instant, regarding payment of pensions of Non-European officials, I have the honour to state that the matter has not been overlooked but a reply has been deferred pending decision on the proposals of this Government for a reduction of present Asiatic emoluments by one third.

*500
54000*

2. That step, which was again put forward in Sir Charles Bowring's telegram of the 17th instant, would automatically solve the difficulties regarding "florin" pensioners. Rupee pensioners resident in India or Zanzibar would remain as at present, while those in East Africa would be treated on the same basis as European pension holders.

3. Failing approval of these proposals I consider that all florin pensions should be paid at ^{sh. d.} the rate of 1/4 for each florin of pension as assessed

IS GRACE

THE DUKE OF DEVONSHIRE, K.G., P.C., G.C.M.G., G.C.V.O.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

assessed in respect of the place of residence of the pension holder. It has to be remembered that all Asiatics at present drawing pensions were engaged on a rupee basis and payment on that basis cannot be said to fall lower than their expectations at the time of engagement; nor can I see any reason why the Colony should be compelled to pay more in pension because the pensioner, for his own convenience, chooses to reside outside his country of origin.

I have the honour to be,

My Lord Duke,

Your Grace's most
devoted and most obedient servant,

R. T. Gordon

GOVERNOR.

in the light of the revision
of the local allowances
of European officers in

those Dependencies. The

Order of Devonshire has now

read and considered the

observations, and in view

directs me to request

that the following cases may
be considered as in compliance

is considered as in compliance
with the present practice in matters

As regards future cases as they are considered
it will be years before they are assigned to the
in the Service. The

opinion of pensioners, supplied
existing pen

reduction, the order can be

justified in the case of

those officials who, since

the revision of salaries and

the introduction of florin

and subsequently of shilling currency,

have had their pensions

calculated in florins or shillings

upon

DRAFT.

(1926/20)

(2)

MINUTE.

(1930/21)

Mr.
Mr.
Mr.
Mr. Davis.
Sir G. Crindall.
Sir H. Read.
Sir J. Masterton Smith.
Mr. Ormsby Gore.
Duke of Devonshire.

upon florin or shilling rates of salary. The class of cases to which ~~for~~ the letter from this Dept. of the 3rd of May, 1920, which was answered by your letter No. P. 24151/20 of the 12th of Jan., 1921, referred was that in which the pension was granted before the change in the currency of the three Dependencies. The salaries of non-European officials before the change in the currency were expressed in Indian rupees, but it was the practice to calculate and express their pensions in sterling, as

the practice has since been to calculate and express their pensions in terms of

as a matter of convenience,
on the basis of fixed rupees
to the pound.

4. So far as pensioners
of this class resident in
India or Tanganyika are
concerned, the S. of S.
does not think that their
Lordsships will feel any
difficulty in agreeing that
no change in the rate of
payment should be made.

So long as the exchange
value of the Indian rupee
remains steady in the
neighbourhood of $1\frac{1}{4}$ d
sterling, the simple and
natural procedure is to
pay the pensions at the
rate of Rs. 15 to the
pound sterling. ~~and~~ No
question

question of ~~the~~ decreasing
this rate could arise ~~under~~
- unless and until the exchange
value of the Indian rupee
~~would~~ rise above $1\frac{1}{4}$ d.; but the
S. of S. does not think that
even then any reduction of
the rate could be justified,
for the reasons set forth
at the end of para. 6
below with reference to the
case of pensioners resident
in the Dependencies which
now use a shilling currency.

5. In dealing with the
case of pensioners resident
in Kenya, Uganda or
the T.T., it is necessary
once more to emphasize
the fact that it was
only for reasons of
convenience that the
pensions as actually
granted

DRAFT.

3

MINUTE.

Mr.

Mr.

Mr.

Mr. Davis.

Sir G. Grindle.

Sir H. Reid.

Sir J. Masterton Smith.

Mr. Ormsby Gore.

Duke of Devonshire.

... were expressed in
 ... and not in rupees.
 ... pensions were for all
 ... purposes rupee
 ... just as the salaries
 ... which they were based
 ... were rupee salaries. As
 ... the C.C. of the Treas. are
 ... aware, the E. Africa and
 ... (Uganda (Currency) (No. 2)
 ... O. in C., 1920, provides
 ... that "where any contract
 ... entered into or instrument
 ... made before the commencement
 ... of this Order provides for the
 ... making of any payment in
 ... terms of rupees in contract
 ... or instrument shall have
 ... effect as if references to florins
 ... were substituted for references
 ... to rupees." By the Kenya
 ... and Uganda (Currency)
 ... O. in C., 1921, references to
 ... twice

twice the number of shillings
 are substituted for references
 to rupees.

DRAFT.

(4)

MINUTE.

6. The Duke of Devonshire
 does not consent that
 pension ... and

As stated in
 the Dept. ...

rad.

Master...

Mr. Cranby Gore.

Duke of Devonshire.

if not

... payment ... shilling
 less than one florin or
 two shillings for every
 rupee of pension, if the
 pensions had been
 actually expressed in
 rupees instead of in
 sterling, and that such
 less

less payment would have been inconsistent with the spirit, if not with the letter, of the Orders in Council. If this is conceded, it would be hardly ^{less} difficult to give's opinion to ^{the} effect a reduction of pension on the ground that the ^{value} ^{of the} ^{sterling} ^{is} ^{falling} ^{and} ^{by} ^a ^{reduction} ^{of} ^{the} ^{amount} ^{of} ^{the} ^{award} ^{is} ^{not} ^{justified} ^{and} ^{that} ^{the} ^{Government} ^{is} ^{not} ^{bound} ^{to} ^{pay} ^{at} ^{the} ^{rate} ^{of} ^{the} ^{flour} ^{or} ^{the} ^{value} ^{of} ^{the} ^{sterling} ^{to} ^{the} ^{pound}. In any case it would be almost impossible to explain the change to the individual pensioner, who ^{understands} ^{and} ^{considers} ^{himself} ^{entitled} ^{to} ^{as} ^{many} ^{flour} ^{or} ^{rupees} ^{as}

Small probability has been known that the value of sterling and other

DRAFT.

5

MINUTE.

- Mr. ...
- Mr. ...
- Mr. ...
- Mr. Davis
- Sir G. ...
- Sir H. ...
- Sir J. ...
- Mr. ...
- ...



as many of shillings, as he had rupees in the past. The difficulty of explanation would be even greater if ~~an attempt were made~~ in the case of pensioners resident in rupee-using countries, if an attempt were made to ~~the~~ the amount of rupees paid to them in respect of pension on the ground of a rise in the sterling exchange value of the rupee.

7. In view of the considerations set forth

forth above the I. O. A.
trusts that the L. C. of
the Treas. will agree
that it is impracticable
to ~~attempt to reduce~~
effect any reduction in
the pensions of non-
European officials in
Kenya, Uganda or the
T.T. on the ground
of the reduction in the
local allowance of European
officers.

(Signed) H. J. READ