

EAST AFR. PROT

24433

24433

26 JUL 1914

Governor 570

Belfield

592

RAILWAY PROVIDENT FUND RULES

1914

8th June

States as to necessity for obtaining S. of S's approval and encloses memo. by Attorney General on subject. Railway manager has been asked to report on suggestion in Treasury proposal in C.O. desp. 358 of 1908. Encloses copy of Gazette containing Rules.

Last previous Paper.

5/19491

~~Mr. Stephenson~~ }
~~W. Wood~~ } Sir J. Anderson

W Wood has kindly gone through these Rules, & I incorporate his remarks in this minute.

Rule 8 - This is amended so as to cover the arrangements effd. by the ~~Board~~ in 14009/12.

Rule 11 - It can be seen nothing here as to raising the limit of voluntary deposits from 15000 to 20000 yearly upon 23000 to 27500 in all. This is well.

I think, a matter in which we need raise any question.

Rules 26 & 27 (old edition). These

And 735 para 7, Aug. 14.

Next subsequent Paper.

5/30440

have been omitted - see 47 & 48
memo. § 7. The reasons given
by Mr. Baugh seems to amply
suffice to justify or rather
acceptate the variation.

Rules 47, 48 are new. They
deal with the gratuities payable
under the arrangement approved
in Govt 478 ¹³/₁₄. ("gratuity" has
been substituted for "bonus" in
Rule 47 as originally approved).
Mr. Wood has raised the question,
from what date does service
for gratuities under these two
rules count? Is it to be from
the date of first appointment to the Railway
& to include service before
the establishment of the R.F.? I certainly
inclined this to be the intention,
but I ask Governor for his
opinion.

Rules 49 & 50 are explained
adequately in the Act's memo.

As to last para. of Mr. Baugh's
memo.

memo - See Govt 26676704 -
We shall receive a further
comm. as to this - see para 3
of the draft.

adv. receipt. say that
has no objection to make in the
form in which the Rules have
now been promulgated except
that he is not clear as to
Rules 47 & 48 (see above) &
wd. be glad to learn whether
the Gov.'s intention was that
service should count etc....

& await further comm.
referred to in para 3 of draft.

dec'd
12/7/14
29/7/14
H. J. J.
29/III/14

atoned
29.7.14

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

June 24th, 1914.

69

EAST AFRICA PROTECTORATE.

No. 570.

*g
Gov
1949*

Attorney General
28-5-14

Official Gazette
10-8-14

*g
Gov
4/19
13-4*

I have the honor to refer to my telegram No. 125 of the 24th of May and to your telegram of the 30th in reply on the subject of the Uganda Railway Provident Fund Rules.

2. The question arose on the receipt of your despatch No. 68 of the 21st of January and the Attorney General then reported that, as far as he could ascertain, the original Rules under "The East Africa State Railway Provident Fund Ordinance 1908" had never received the formal sanction of the Governor of the day. He was therefore of opinion that all actions taken by the Railway authorities under the Rules had been ultra vires and suggested that, as so long a period had elapsed between the date on which the Secretary of State had approved the draft, and that on which they would be gazetted, it would be advisable to seek your approval to the action proposed. I attach

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

a copy of his memorandum on the subject for your information.

3. The opportunity has been taken to introduce certain amendments to the original draft, none of which are of material importance, and the General Manager has been asked to report on the suggestion put forward by the Lords Commissioners of the Treasury in paragraph 1(E) of Lord Crewe's despatch No.358 of the 31st of July 1908.

*For
266/6
/8*

4. I enclose a copy of the Official Gazette containing the Rules as promulgated.

I have the honour to be,

Sir,

Your humble, obedient servant,

H. Curzon, Bt.

GOVERNOR.

2135

5282

INCLOSURE

15/7 of 1914

1914

MAY 26th. 1914.

Honourable Acting Chief Secretary,

It would appear from the information I have been able to gather that the rules under the East Africa State Railway Provident Fund Ordinance 1908 have never been 'made' under Section 5 of the Ordinance by any Governor in as much as they have never been signed by a Governor. Further the approval of the Secretary of State has not been definitely given to the rules as they appear in the print.

2. Certain draft rules were, I believe, enclosed in Mr. Currie's No. 104 of the 5th October 1907 and were sent to the Colonial Office with our No. 444 of the 15th October 1907, the copy of which is missing from the Secretariat Minute Paper. The Secretary of State gave a qualified approval to these rules by a cable, dated 28th July 1908, which stated 'provident fund scheme also approve subject to consideration of few points of details to which despatch follows by mail'. The despatch, No. 356 of 28th July 1908, duly arrived and in it the Secretary of State concurred in certain suggestions made by the Treasury and enclosed some notes made by the Lords of the Treasury. From the Railway file I gather that these suggestions were considered by a departmental committee and that the draft rules were to some extent altered in accordance with them. As it will be necessary to 'make' and publish the rules under the Ordinance nearly six years after the Secretary of State had given a qualified approval of the first draft I am of

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26/10/14

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695A 5728

INCLOSURE

In D. of 19

116/14

MAY 26th, 1914.

Honourable Acting Chief Secretary,

It would appear from the information I have been able to gather that the rules under the East Africa State Railway Provident Fund Ordinance 1908 have never been 'made' under Section 5 of the Ordinance by any Governor in as much as they have never been signed by a Governor. Further the approval of the Secretary of State has not been definitely given to the rules as they appear in the print.

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40056
26/10

the opinion that they should be submitted again for the Secretary of State's approval.

3. As rules under the Ordinance do not in fact at present exist by law the Railway has been acting under unauthorised rules and has made unauthorised deductions from the salaries of its servants affected by such unauthorised rules and has dealt with such deductions in an unauthorised manner.

4. I enclose a draft of the rules for execution by the Governor after the approval of the Secretary of State has been obtained. Twelve copies of the print were sent to the Under Secretary of State for the Colonies on the 28th October 1912, vide S.2125 (27), in pursuance of a request for them received from that gentleman. In view of the facts with which I have dealt in this minute it is expedient that the position be regularised as speedily as possible. I would therefore suggest that the Secretary of State's definite approval be sought by cable.

5. The printed copy has been altered as little as possible. Such alterations as have been made relate mostly to terminology and drafting.

6. A superfluous 'not' appears to have crept into rule 3, c. I, II, and III of the print.

7. The Ordinance makes no provision for the deposit of security in the Fund by contractors and I am therefore of the opinion that rules 26 and 27 of the print should be omitted. I have accordingly not included them in my draft and have made the necessary consequential amendments.

8. In my opinion rule 51 of the print is unnecessary and ultra vires. Whether the provisions of section 6 of the Ordinance applies to any particular deposit or other sum or not is a question of the construction of the Ordinance. The provisions of the Section cannot be extended by any rule under the Ordinance.

9. The forms which are referred to in the rules should be included in the rules. I have therefore drafted a new rule 49.

10. I have also added a rule applying the rules to deposits already made in the Fund. Such rule may be sufficient to cover the case but if any trouble arises it may be necessary to enact an Ordinance validating the acts of the Railway regarding the fund upto the date the rules become law. In my opinion it is impossible to ante-date the rules.

11. It should be pointed out that Lord Greve considered the rules apart from the legislation which was necessary to carry the scheme into effect vide his No. 258 of 31st July 1908, paragraph 4. He further concurred in the Treasury suggestion that the scheme should be revised at the end of (say) five years in the light of actual experience vide paragraph 1, e. I have no knowledge if such revision is necessary.

42
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St. J. W. BARTON
ATTORNEY GENERAL.
(P.)

Gov. 24433/1914
CAP

65

3

4 Aug. 1914.

Hand 42118

Sir,

DRAFT.

CAP No. 735
Gen. Dir. B. Beljean.

MINUTE.

- Mr. ~~Frost~~ 31/7/14
- Mr. ~~Parkinson~~ 1/8/14
- Mr. ~~Read~~
- Sir G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

I have the honour to acknowledge the receipt of your despatch, No. 576, of the 8th of June, ~~and to inform you that on~~ the subject of the Uganda Railway Proponent Fund Rules.

2. I have no observations to make on the form in which the Rules have now been promulgated, except that ~~it is~~ not clear from subs 47 & 48 ~~services~~ from what

date service for
gratuities under these
two rules will count.

I shall be glad to
learn whether you are
of opinion that services
prior to the establishment
of the ^{Provident} ~~Common~~ Fund ~~is to~~
should be included for the
purpose of computing
gratuities under these
rules.

3. I shall await the
receipt of the further
communication referred to
in para 3 of your despatch.