
CHAPTER 39**PUBLIC SERVICE**

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CHAPTER 39**PUBLIC SERVICE****An Act to make provision for the conditions of service of members of the Public Service.**

*[Assent 17th April, 1969]
[Commencement 1st July, 1967]*

*9 cf 1969
8 cf 1972
16 cf 1973
E L A O, 1974
S I 89/1979
4 cf 1985
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11 cf 1997*

**PART I
PRELIMINARY**

1. This Act may be cited as the Public Service Act, and, subject to the provisions of section 18 of this Act, shall be deemed to have come into operation on the 1st day of July, 1967, hereafter in this Act referred to as the appointed day.

Short title and commencement

2. (1) In this Act, unless the context otherwise requires —

Interpretation

“appropriate Commission” means, in relation to any public officer holding an office to which Article 117 of the Constitution applies, the Judicial and Legal Service Commission and, in relation to any other public officer, the Public Service Commission;

E L A O, 1974

“contract officer” means a person employed as a public officer in accordance with the terms of an agreement with the Government for a fixed period of time, whether or not such agreement is renewable on the expiration of such fixed period of time;

“efficiency bar” means any point in a scale of salary as set forth in the estimates of revenue and expenditure of The Bahamas at which the words “Efficiency Bar” or “Bar” or the initials “E.B.” appear, or, where more than one scale of salary is provided in respect of any office, the point or points between such scales;

ELAO, 1974

“Minister” means the Minister responsible for Public Personnel;

“officer” means public officer and “office” means public office;

“pensionable office” means any office which is pensionable under the provisions of any enactment relating to the pensions of public officers;

“public office” means any office of emolument in the public service;

“public officer” means the holder of any public office;

“public service” means service in a civil capacity under the Government of The Bahamas.

Ch. 205.

(2) Where provision is made by this Act in respect of any particular matter in respect of which corresponding provision is made in the Police Act, the provisions of that Act shall prevail and this Act shall be read and construed accordingly.

PART II EMOLUMENTS, POINTS OF ENTRY, INCREMENTS, ETC.

Payment of salaries, etc.

3. Subject to the provisions of this Act, the salaries and allowances of all public officers shall be paid out of such sums as Parliament may from time to time appropriate for that purpose.

Salaries of Governor-General and certain other officers.
First Schedule.

4. There shall be paid to the person holding the office of Governor-General and to the persons holding the other public offices specified in the first column of the First Schedule the salaries respectively set forth opposite thereto in the second column of that Schedule, and there shall, in addition, be paid to the person holding the office of Governor-General the duty allowance set forth opposite thereto in the third column of that Schedule.

Starting salary and incremental date.
ELAO, 1974

5. (1) Every public officer appointed to an office for which a scale of salary is provided shall enter that scale at the lowest point thereof unless the Governor-General, acting in accordance with the advice of the appropriate Commission, approves of such person entering such scale at an incremental point above that point.

(2) The incremental date of a public officer shall, unless the Governor-General, in accordance with the advice of the appropriate Commission, in any case otherwise determines, be the anniversary of the first day of the month in which the officer was appointed to the office held by him.

6. The decision whether to grant, defer or withhold increments of salary of public officers in receipt of salary within a scale shall be made by the Governor-General, acting in accordance with the advice of the appropriate Commission:

Grant of increments.

E L A O , 1974

Provided that no officer shall receive an increment of salary beyond an efficiency bar until he has satisfied the appropriate Commission that he has attained such a degree of efficiency and responsibility in the performance of his duties as, in the opinion of the Commission, justifies his passing that bar.

7. The Governor-General, acting in accordance with the advice of the appropriate Commission, may advance a public officer in receipt of salary within a scale —

Accelerated increments.

8 c f 1972, s 2; E L A O , 1974

- (a) in a case where the officer in the opinion of the Commission possesses or acquires sufficient qualifications to justify such advancement, to such higher incremental point within that scale as the Governor-General may think fit (whether or not such advancement would take such officer beyond an efficiency bar); and
- (b) in a case where the officer in the opinion of the Commission is discharging his duties with sufficient merit to justify such advancement, by one incremental point within any segment of that scale, provided that there shall have been no previous advancement under this paragraph of the officer in question in that segment.

8. Subject to the provisions of subsection (1) of section 12 of this Act, the service of every public officer other than a contract officer, for the period of one year (or such longer period not exceeding five years as the Governor-General, acting in accordance with the advice of the appropriate Commission, may in any particular case

Service on probation.

determine) next following the date of his first appointment to a pensionable office shall be service on probation, and such service on probation may be terminated at any time by the Governor-General pursuant to the provisions of Article 108 or 117 of the Constitution, as the case may be, or by any person lawfully exercising any power vested in such person by the Governor-General under the provisions of Article 110 of the Constitution, upon giving to such officer one month's notice terminating such service or upon payment to him of one month's salary in lieu of such notice:

15 of 1890

Provided that no part of the service of any public officer in relation to whom the provisions of the proviso to subsection (1) of section 21 of the Public Service Act (now repealed) applied immediately before the appointed day shall by virtue of this section be deemed to be service on probation.

When difference in salary may be paid
15 of 1890

9. Every public officer who immediately before the appointed day held a pensionable office and, under the provisions of the Public Service Act (now repealed), was in receipt in respect of that office of salary and any other emolument or benefit the total value of which exceeded the total value of the gross emoluments of the public office held by him on that day shall be entitled, for so long as he continues to hold such last-mentioned office, to receive, and he shall be paid, the amount of such excess.

Education officers' allowances
Second Schedule

10. (1) The several officers specified in the first column of the Second Schedule shall be paid the allowances set forth opposite thereto in the second column of that Schedule.

Ch 43

(2) Every such allowance shall be pensionable and shall form part of the pensionable emoluments of the officer in question for the purposes of the Pensions Act.

**PART III
PRISON DEPARTMENT AND
INDUSTRIAL SCHOOLS
SUBORDINATE OFFICERS**

Interpretation of Part III

11. In this Part of this Act, unless the context otherwise requires —

“industrial school” means a place or premises declared to be an industrial school by an order made under the provisions of section 20 of the Children and Young Persons (Administration of Justice) Act, being a place or premises wholly maintained out of public funds; Ch. 97.

“relevant service” means —

- (a) in relation to a subordinate officer of an industrial school, service in the industrial schools of The Bahamas;
- (b) in relation to a subordinate officer of the Prison Department, service in the Prison Department;

“subordinate officer” means an officer of the Prison Department holding an office specified in Part A of the Third Schedule or an officer of an industrial school holding an office specified in Part B of that Schedule. Third Schedule.

12. (1) Notwithstanding anything to the contrary in this Act, every appointment of a subordinate officer in an industrial school shall in the first instance be for a period of six months on probation. Upon the expiration of such period such officer shall be eligible for substantive appointment for a further period not exceeding two years and six months. Service of subordinate officers.

(2) Upon the expiration of any period of substantive appointment served pursuant to subsection (1) of this section, a subordinate officer shall be eligible for substantive re-appointment for a further period not exceeding three years and thereafter for further periods in each case not exceeding three years, so however, that no person shall be permitted to exceed a total of twenty-five years of service whether continuous or not (including any period served on probation) as a subordinate officer in the industrial schools of The Bahamas. 8 cf 1972, s 3

(3) In relation to subordinate officers of the Prison Department, nothing in this Act shall be taken to affect the provisions of subsections (2), (3) and (4) of section 9 of the Prisons Act. Ch. 208.

13. (1) Notwithstanding anything in this or any other Act the Governor-General, acting on the recommendation of the Public Service Commission, may grant to any subordinate officer of the Prison Department — Pensions in certain cases. 8 cf 1972, s 4 11 cf 1997, s 2

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- (a) who retires from service in the Prison Department after completing thirty years of continuous good and efficient service, a pension of one-half of the annual salary payable to such officer at the date of his retirement, together with a gratuity equal to one year's salary; or
 - (b) who retires from service in the Prison Department in accordance with the provisions of the Prisons Act, without having completed thirty years of continuous good and efficient service at the time of his retirement, a pension at the rate of one-six-hundredth of his annual salary at that time in respect of each completed month of such service.

11 cf 1997, s 2

(2) Notwithstanding anything in this or any other Act the Governor-General, acting on the recommendation of the Public Service Commission, may grant to any subordinate officer of an industrial school who retires from service in the industrial schools of The Bahamas after completing not less than twenty-five years of continuous good and efficient service, a pension of one-half of the annual salary payable to such officer at the date of his retirement.

ELAO, 1974

(3) Where any subordinate officer retires on account of ill health or severe bodily injury, occasioned without his own fault, at any time after his first substantive appointment and his conduct in the opinion of the Public Service Commission has been satisfactory, the Governor-General acting in accordance with the advice of the Commission, may grant to such subordinate officer, in respect of every completed year of his service, a pension calculated at the rate of one-sixtieth of the annual salary payable to such officer at the date of his retirement.

ELAO, 1974

(4) Subject to the provisions of Article 121 of the Constitution, the grant of any pension under the provisions of this section shall be in lieu of any pension or gratuity payable under any other Act.

16 cf 1973, s 2

(5) Notwithstanding anything in this Act, no subordinate officer shall be entitled to gratuity under section 15 of this Act.

14. (1) Any person who on the 1st day of October, 1996 is a subordinate officer of the Prison Department, shall be entitled to exercise, not less than six months before the date on which he is to retire, an option as to whether the law applicable in respect of his period of appointment in the prison service and in respect of the grant and payment to him of any pension in relation to such appointment, shall be the law in force immediately before the 1st day of October, 1996 or the law in force immediately after the 1st day of October, 1996.

Transitional
provisions
11 cf 1997, s 3

(2) Where an officer referred to in subsection (1) fails to specify within the time prescribed in that subsection which law shall apply in his case, the provisions of the law which is applicable to his period of appointment in the prison service and to the grant and payment of a pension to him and which is in force immediately before the 1st day of October, 1996 shall, notwithstanding the repeal of those provisions, continue to apply in his case.

(3) For the purposes of subsection (1), an officer referred to in that subsection shall exercise his option as to which law shall apply in his case by written notification of his decision addressed to the Governor-General.

PART IV GRATUITIES FOR CONTRACT OFFICERS

15. (1) Subject to the provisions of this section, every contract officer who is employed for a continuous period of not less than two years in any public office shall upon satisfactory completion of his contract service be entitled to receive and he shall be paid out of the Consolidated Fund a gratuity equal in amount to fifteen per centum of the total salary which he shall have received in respect of such contract.

Gratuity

(2) There shall be deducted from the amount of the gratuity payable to any contract officer under the provisions of subsection (1) of this section an amount equal to the amount, if any, which the Government has expended during the contract service of such officer for the purpose of preserving any pension or superannuation which may have accrued to such officer in the service of any previous employer prior to his employment in the public service of The Bahamas.

(3) The provisions of this section shall not be construed to prevent the Government from entering into any agreement with any contract officer the terms of which relating to the payment or amount of any gratuity are more advantageous to the officer than the said provisions.

PART V ACTING ALLOWANCES

Interpretation of
Part V

16. In this Part of this Act, unless the context otherwise requires —

“emoluments” means the emoluments paid in virtue of the tenure of a public office but does not include a rental allowance or a personal allowance;

ELAO, 1974

“office of responsibility” means any public office declared by the Governor-General, acting in accordance with the advice of the appropriate Commission, by notice in the *Gazette* to be an office of responsibility, being an office in respect of which allowances may be paid to a person appointed to discharge the duties of, or, as the case may be, to act, in such an office in accordance with the provisions of section 17 of this Act.

Acting
allowances

ELAO, 1974

17. (1) The Governor-General, acting in accordance with the advice of the appropriate Commission, may appoint a public officer to discharge the duties of an office of responsibility in place of the duties of his substantive office, and, where any public officer is so appointed, then —

- (a) if the emoluments of his substantive office are not less than the minimum emoluments of the office of responsibility, he shall receive the emoluments of his substantive office;
- (b) if the emoluments of his substantive office are less than the minimum emoluments of the office of responsibility he shall receive the minimum emoluments of the office of responsibility.

ELAO, 1974

(2) The Governor-General, acting in accordance with the advice of the appropriate Commission, may appoint a public officer to act in an office of responsibility under this subsection in circumstances where an appointment under

the provisions of subsection (1) of this section would not in the opinion of the Commission be appropriate, and, where any public officer is so appointed, then —

- (a) if the emoluments of his substantive office are not less than the minimum emoluments of the office of responsibility, he shall receive the emoluments of his substantive office;
- (b) if the emoluments of his substantive office are less than the minimum emoluments of the office of responsibility, he shall receive the emoluments of his substantive office, and, in addition, one-half of the difference between the emoluments of his substantive office and the minimum emoluments of the office of responsibility.

18. This Part of this Act shall be deemed to have come into operation on the 1st day of January, 1968.

Commencement of this Part.

PART VI MISCELLANEOUS

19. (1) On the death of any public officer to whom any sum of money not exceeding in all one thousand dollars may then be due on account of salary, allowance or pension payable out of the Consolidated Fund, it shall be lawful for the Minister by warrant in the usual manner, on his being satisfied of the expediency in such case of dispensing with the production of letters testamentary or letters of administration, to authorise such sum of money to be paid to such person as the Minister may consider entitled thereto, without requiring the production of letters testamentary or letters of administration.

Authorises payment otherwise than to executors or administrators of money due to deceased persons on account of salaries, etc.
E L A O , 1974

(2) Any payment made under the authority of this section shall be valid against all persons whomsoever, and all persons acting under the provisions thereof shall be absolutely discharged from all liability in respect of all moneys duly paid by them pursuant to the said provisions.

20. The Governor-General may make regulations for carrying this Act into effect.

Regulations, etc.

21. The Governor-General may by order amend or revoke and replace any of the provisions of the First, Second and Third Schedules:

Amendment of Schedules.

Provided that the salary of any public officer, and the duty allowance of the Governor-General, specified in the said First Schedule shall not be altered to the disadvantage of any such officer or the Governor-General, as the case may be, during his continuance in office.

Service of certain
officers in diplo-
matic service of
The Bahamas
4 cf 1985, s. 2

22. (1) Where a person holds or acts in any public office other than a representative office and that person is appointed to a representative office —

- (a) he shall in respect of his service thereafter in any public office prior to his retirement or resignation from the public service, be entitled to a salary no less than that which he would otherwise have been receiving if he had not assumed the appointment to a representative office; and
- (b) his service in the latter office shall, without prejudice to any other law, be reckoned as if it were service in the first-mentioned public office for the purposes of determining his eligibility for appointment (including on promotion or transfer) to another office in the public service based upon his seniority in that service upon his ceasing to hold a representative office.

(2) The reference in this section to a representative office is a reference to an office to which Article III of the Constitution applies.

FIRST SCHEDULE (Sections 4, 21)

SI 89/1979
4 of 1988
SI 7/1996

| <i>First Column Office</i> | <i>Second Column Salary</i> | <i>Third Column Duty Allowance</i> |
|--|-------------------------------------|--|
| Governor-General | \$37,000.00 | \$11,430.00 |
| Auditor-General | 23,100.00 | |
| Chairman of the Public Service Commission | 26,000.00 | |
| Member of the Public Service Commission | 19,500.00 | |
| Chairman of the Police Service Commission | 2,070.00 ¹ | |
| Member of the Police Service Commission | 1,035.00 ² | |

¹ Honoraria.

² Honoraria.

SECOND SCHEDULE (Sections 10, 20)

| <i>First Column Office</i> | <i>Second Column Allowance</i> |
|--|------------------------------------|
| Headteacher, Grade D School | \$1,000 p.a. |
| Deputy Headmaster, Grade A School | \$1,500 p.a. |
| Teachers and Lecturers Grade I Allowance | \$1,000 p.a. |
| Teachers and Lecturers Grade II Allowance | \$ 750 p.a. |
| Teachers and Lecturers Grade III Allowance | \$ 500 p.a. |
| Teachers and Lecturers Grade IV Allowance | \$ 250 p.a. |

8 cf 1972 s 5

THIRD SCHEDULE (Sections 11 and 12)
¹ PART A. PRISON DEPARTMENT

Sergeant.
Corporal.
Prison Officer.

PART B. INDUSTRIAL SCHOOLS.

Principal Officer.
General Duty Officer.
Assistant Matron.
Cook/Supervisor and Storekeeper.

¹ Section 5 of Act No. 8 of 1972 came into operation on 1st January, 1969 [Section 5(2)]