

No. 7545

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
MALAYSIA**

**Public Officers Agreement in respect of Sabah. Signed at
Kuala Lumpur, on 9 July 1964**

Official text: English.

*Registered by the United Kingdom of Great Britain and Northern Ireland on
13 January 1965.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
MALAISIE**

**Accord relatif aux fonctionnaires en ce qui concerne le
Sabah. Signé à Kuala-Lumpur, le 9 juillet 1964**

Texte officiel anglais.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13 jan-
vier 1965.*

No. 7545. PUBLIC OFFICERS AGREEMENT¹ BETWEEN HER MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF MALAYSIA IN RESPECT OF SABAH. SIGNED AT KUALA LUMPUR, ON 9 JULY 1964

The Government of Malaysia of the one part, having obtained the consent of the Government of Sabah to their entering into this Agreement in so far as its terms may affect the responsibilities or interests of the Government of Sabah, and Her Majesty's Government in the United Kingdom, of the other part, have agreed as follows :

Interpretation

1. (1) In this Agreement—

(a) "the appointed day" means Malaysia Day ;

(b) "conditions of service" means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages ;

(c) "officer" means an officer whose conditions of service before the appointed day included an entitlement to a free passage from Sabah for the purpose of leave of absence upon the completion of a tour of duty and who was before that day the substantive holder of a pensionable office in the public service of Sabah, being a person—

- (i) who was selected for or offered appointment to the public service of Sabah by a Secretary of State ; or
- (ii) whose appointment to the public service of Sabah was approved by a Secretary of State ; or
- (iii) who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in the public service of Sabah ; or
- (iv) who (although not an officer falling within heads (i), (ii) or (iii) of this sub-paragraph) is or has been a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary, or has been a member of a former Colonial Unified

¹ Came into force on 9 July 1964, upon signature, in accordance with section 10.

Service, or is or was a designated officer for the purposes of the Overseas Service (North Borneo) Agreement 1961 ; or

- (v) who prior to the date on which Sabah became a colony, was recruited to a post in the public service of Sabah for which, after Sabah became a colony, the normal channel of recruitment was either the Colonial Office or the Crown Agents for Overseas Governments and Administrations ;

(d) "pension" means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Malaysia or by the Government of Sabah to or in respect of any officer or to the widow or child of any officer or their legal personal representatives, including any increase of pension, and any contributions repayable and interest payable to any officer under any law providing for payment of pensions to widows and children of officers.

(2) "Substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in the office for a specified term under a contract.

(3) Reference in this Agreement to Sabah shall, in relation to any period prior to the appointed day, mean the former colony or protected state of North Borneo.

Conditions of Service

2. The conditions of service applicable to an officer who continues to be the substantive holder of a pensionable office in the public service of Sabah on or after the appointed day and to an officer who before the appointed day was the substantive holder of a pensionable office in the public service of Sabah and on or after the appointed day transfers or is seconded to the public service of the Government of Malaysia shall not be less favourable than those which were applicable to him immediately before the appointed day.

Retirement and Pensions

3. The entitlement to retire and the eligibility to receive a pension of any officer who continues to be the substantive holder of a pensionable office in the public service of Sabah on or after the appointed day and of an officer who before the appointed day was the substantive holder of a pensionable office in the public service of Sabah and on or after the appointed day transfers or is seconded to the public service of the Government of Malaysia or of the widow, children, dependants or personal representatives of such an officer shall be provided for in the laws, regula-

tions and administrative directions in force immediately before the appointed day or by such other laws, regulations and administrative directions made thereafter as are not less favourable ; and pensions shall be granted and paid to such officers and other persons accordingly.

Preservation of Pensions

4. The pension of any officer who has ceased to be the substantive holder of a pensionable office in the public service of Sabah before the appointed day, or of the widow, children, dependants or personal representatives of any such officer shall be granted and paid, or if granted before that date shall continue to be paid, in accordance with the laws, regulations and administrative directions governing those pensions immediately before the appointed day or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable.

Payment of Pensions

5. (1) A pension shall, at the option of the person to whom it is payable, be paid either in Malaysia or in the country in which he is residing or in any other country to which he had an entitlement to a free passage for the purpose of leave of absence upon the completion of a tour of duty as may from time to time be requested by him in writing.

(2) An option exercised under paragraph (1) of this Article—

(a) may be revoked at any time and a fresh option be exercised ;

(b) shall be exercised or revoked by notice in writing ;

(c) shall take effect on the first day of the next succeeding month, or at the person's election on the first day of any subsequent month after the date on which the notice is received by the State Secretary.

(3) Pensions payable outside Malaysia after the day on which this Agreement comes into operation shall be paid in the currency of the country in which payment is to be made, and the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the pension calculated at the rate of two shillings and four pence to one Malayan dollar notwithstanding any variation in that rate ;

Provided that, if there is a general revision of salaries consequent upon the revaluation of the currency in use in Malaysia as a result of which the pensionable emoluments of an officer may be increased, that officer may be required to agree that any pension that may be granted to him shall be calculated at the rate of exchange prevailing at the date of the revision of salaries before he is granted the benefit of the increase of pensionable emoluments.

(4) Where the person to whom a pension is payable is a minor, his or her lawful guardian may exercise the option conferred by this paragraph.

Increase of Pensions

6. The Government of Malaysia undertakes that, in any future schemes to increase pensions payable to any class or description of pensioner, there shall be no differentiation between officers or the widows or children of officers and other pensioners.

Options

7. For the purposes of this Agreement, in so far as the laws, regulations or administrative directions applicable to the grant of a pension or to other conditions of service depend on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the officer to whom the conditions of service apply, the laws, regulations or administrative directions for which such person or officer opts shall be taken to be more favourable to him than any other law, regulation or administrative direction for which he might have opted.

Officers in H.M.O.C.S. and H.M.O.J.

8. (1) Officers who are members of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary shall continue to be eligible for consideration by Her Majesty's Government in the United Kingdom for transfer or promotion to employment in the public service of some other territory.

(2) The Government of Sabah and the Government of Malaysia shall comply with any reasonable request that may at any time be made by Her Majesty's Government in the United Kingdom for the release of such an officer for transfer or promotion in pursuance of paragraph (1) of this Article and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted.

(3) Before he is released, such an officer shall be required to make arrangements for the repayment of any compensation or instalments of compensation (but not of any interest paid on outstanding instalments) he may be required to repay in accordance with the compensation and retiring benefits scheme under which the compensation or instalments of compensation were paid to him, such arrangements to be to the satisfaction of the Government to which the repayment is to be made.

Appeals against decisions affecting pension or compensation

9. Section 85 of the Malaysia Act, which provides for appeals by officers against decisions of disciplinary authorities affecting pension or compensation, shall not be repealed or amended to the prejudice of the interest of any officer.

Citation and commencement

10. This agreement may be cited as the Public Officers (Sabah) Agreement, 1964, and shall come into operation on the date of signature.

DONE in duplicate at Kuala Lumpur this 9th day of July 1964.

Signed on behalf of the Government of Malaysia :

TUN ABDUL RAZAK

Signed on behalf of Her Majesty's Government
in the United Kingdom :

HEAD