

No. 7548

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

**Public Officers' (Nyasaland) Supplementary Agreement
1964. Signed at Zomba, on 7 August 1964, and at Lon-
don, on 28 August 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
MALAWI**

**Accord supplémentaire de 1964 relatif aux fonctionnaires
(Nyassaland). Signé à Zomba, le 7 août 1964, et à Lon-
dres, le 28 août 1964**

Texte officiel anglais.

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

No. 7548. PUBLIC OFFICERS' (NYASALAND) SUPPLEMENTARY AGREEMENT 1964¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF MALAWI. SIGNED AT ZOMBA, ON 7 AUGUST 1964, AND AT LONDON, ON 28 AUGUST 1964

Her Majesty's Government in the United Kingdom and the Government of Malawi have agreed as follows :

Construction and interpretation

1. (1) This Agreement shall be read and construed as one with the Public Officers (Nyasaland) Agreement 1964² (hereinafter called "the principal Agreement").

(2) In this Agreement "non-designated officer" means any officer (not being an overseas officer) whose conditions of service before the appointed day included an entitlement to free passages from Nyasaland 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 Nyasaland.

Application of Articles 3, 4, 5, 6 and 7 of Agreement of 1964

2. The provisions of Articles 3, 4, 5 and 6 of the principal Agreement and so much of the provisions of Article 7 as relate thereto shall apply in relation to a non-designated officer and his widow, children, dependants and personal representatives as they apply in relation to an overseas officer and his widow, children, dependants and personal representatives.

Citation and commencement

3. This Agreement may be cited as the Public Officers' (Nyasaland) Supplementary Agreement 1964 and shall come into operation on the date of signature.

¹ Came into force on 28 August 1964, upon signature, in accordance with section 3.

² For the text of this Agreement, see p. 226 of this volume.

DONE in duplicate at Zomba this seventh day of August, 1964 on behalf of the Government of Malawi and in London on the twenty-eighth day of August, 1964 on behalf of Her Majesty's Government in the United Kingdom.

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

Duncan SANDYS

Signed on behalf of the Government of Malawi :

H. Kamuzu BANDA
Prime Minister

PUBLIC OFFICERS AGREEMENT BETWEEN HER MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF NYASALAND

Her Majesty's Government in the United Kingdom and the Government of Nyasaland have agreed as follows :

Interpretation

1. (1) In this Agreement :

(a) "the appointed day" means the first day of November, 1963 ;

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

(c) "overseas officer" means an officer whose conditions of service before the appointed day included an entitlement to free passages from Nyasaland 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 Nyasaland, being a person—

- (i) who was selected for or offered appointment to the Public Service of Nyasaland by a Secretary of State ; or
- (ii) whose appointment to the Public Service of Nyasaland 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 Nyasaland ; or

(iv) who (although not an officer falling within heads (i), (ii) or (iii) of this subparagraph) 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 Service, or is or was a designated officer for the purposes of the Overseas Service (Nyasaland) Agreement, 1961 ;

(d) "pension" means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Nyasaland to or in respect of any overseas officer or to the widow or child of any overseas 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.

Conditions of Service

2. The conditions of service applicable to an overseas officer who continues to be the substantive holder of a pensionable office in the Public Service of Nyasaland on or after the appointed day 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 overseas officer who continues to be the substantive holder of a pensionable office in the Public Service of Nyasaland on or after the appointed day or of his widow, children, dependants or personal representatives shall be as provided for in the laws, regulations and administrative directions in force immediately before the appointed day or in 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 overseas officer who has ceased to be the substantive holder of a pensionable office in the Public Service of Nyasaland 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 Nyasaland 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 Government of Nyasaland.

(3) Pensions payable outside Nyasaland after the appointed day 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 as at the official rate of exchange prevailing on the appointed day :

Provided that, if there is a general revision of salaries consequent upon the revaluation of the currency in use in Nyasaland as a result of which the pensionable emoluments of an overseas officer may be increased, the Government of Nyasaland may require that officer 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 granting him 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 Nyasaland undertakes that, in any future schemes to increase pensions payable to any class or description of pensioner, there shall be no discrimination against overseas officers or the widows or children of such officers.

Options

7. For the purposes of this Agreement, in so far as the law, regulations or administrative directions applicable to the grant of a pension or to other conditions of service

depends on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the overseas officer to whom the conditions of service apply, the law, 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 Her Majesty's Overseas Civil Service
and Her Majesty's Overseas Judiciary*

8. (1) Overseas 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 employ in the Public Service of some other territory.

(2) The Government of Nyasaland 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 an overseas 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, an overseas officer shall be required to make arrangements satisfactory to the Government of Nyasaland for the repayment to that Government of any compensation or instalments of compensation he may be required to make under the scheme of retirement benefits for members of Her Majesty's Overseas Civil Service and for officers designated under the Overseas Service (Nyasaland) Agreement, 1961.

Appeals Board

9. Section 13A of the Nyasaland Constitution Order in Council, 1963, and any enactment replacing the same, relating to benefits, to which section 92 of the Constitution of Nyasaland or any section replacing the same, applies, that may be granted or that may have been granted to or in respect of any overseas officer, shall not be revoked or amended to the prejudice or interests of any such officer.

Citation and commencement

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

DONE in duplicate at Zomba this seventh day of January, one thousand nine hundred and sixty-four, on behalf of the Government of Nyasaland, and in London on the twentieth day of February, one thousand nine hundred and sixty-four, on behalf of Her Majesty's Government in the United Kingdom.

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

Duncan SANDYS

Signed on behalf of the Government of Nyasaland :

H. Kamuzu BANDA
Prime Minister