



Government of India Act 1935

1935 CHAPTER 2

PART X

THE SERVICES OF THE CROWN IN INDIA.

CHAPTER II

CIVIL SERVICES.

General Provisions.

240 Tenure of office of persons employed in civil capacities in India.

- (1) Except as expressly provided by this Act, every person who is a member of a civil service of the Crown in India, or holds any civil post under the Crown in India, holds office during His Majesty's pleasure.
- (2) No such person as aforesaid shall be dismissed from the service of His Majesty by any authority subordinate to that by which he was appointed.
- (3) No such person as aforesaid shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him :

Provided that this subsection shall not apply—

- (a) where a person is dismissed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
 - (b) where an authority empowered to dismiss a person or reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause.
- (4) Notwithstanding that a person holding a civil post under the Crown in India holds office during His Majesty's pleasure, any contract under which a person, not being a

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member of a civil service of the Crown in India, is appointed under this Act to hold such a post may, if the Governor-General, or, as the case may be, the Governor, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

241 Recruitment and conditions of service.

- (1) Except as expressly provided by this Act, appointments to the civil services of, and civil posts under, the Crown in India, shall, after the commencement of Part III of this Act, be made—
- (a) in the case of services of the Federation, and posts in connection with the affairs of the Federation, by the Governor-General or such person as he may direct;
 - (b) in the case of services of a Province, and posts in connection with the affairs of a Province, by the Governor or such person as he may direct.
- (2) Except as expressly provided by this Act, the conditions of service of persons serving His Majesty in a civil capacity in India shall, subject to the provisions of this section, be such as may be prescribed—
- (a) in the case of persons serving in connection with the affairs of the Federation, by rules made by the Governor-General or by some person or persons authorised by the Governor-General to make rules for the purpose;
 - (b) in the case of persons serving in connection with the affairs of a Province, by rules made by the Governor of the Province or by some person or persons authorised by the Governor to make rules for the purpose:

Provided that it shall not be necessary to make rules regulating the conditions of service of persons employed temporarily on the terms that their employment may be terminated on one month's notice or less, and nothing in this subsection shall be construed as requiring the rules regulating the conditions of service of any class of persons to extend to any matter which appears to the rule-making authority to be a matter not suitable for regulation by rule in the case of that class.

- (3) The said rules shall be so framed as to secure—
- (a) that, in the case of a person who before the commencement of Part III of this Act was serving His Majesty in a civil capacity in India, no order which alters or interprets to his disadvantage any rule by which his conditions of service are regulated shall be made except by an authority which would have been competent to make such an order on the eighth day of March, nineteen hundred and twenty-six, or by some person empowered by the Secretary of State to give directions in that respect;
 - (b) that every such person as aforesaid shall have the same rights of appeal to the same authorities from any order which—
 - (i) punishes or formally censures him; or
 - (ii) alters or interprets to his disadvantage any rule by which his conditions of service are regulated; or
 - (iii) terminates his appointment otherwise than upon his reaching the age fixed for superannuation,

as he would have had immediately before the commencement of Part III of this Act, or such similar rights of appeal to such corresponding authorities as

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may be directed by the Secretary of State or by some person empowered by the Secretary of State to give directions in that respect;

- (c) that every other person serving His Majesty in a civil capacity in India shall have at least one appeal against any such order as aforesaid, not being an order of the Governor-General or a Governor.

- (4) Notwithstanding anything in this section, but subject to any other provision of this Act, Acts of the appropriate Legislature in India may regulate the conditions of service of persons serving His Majesty in a civil capacity in India, and any rules made under this section shall have effect subject to the provisions of any such Act:

Provided that nothing in any such Act shall have effect so as to deprive any person of any rights required to be given to him by the provisions of the last preceding subsection.

- (5) No rules made under this section and no Act of any Legislature in India shall be construed to limit or abridge the power of the Governor-General or a Governor to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable :

Provided that, where any such rule or Act is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule or Act.

242 Application of preceding section to railway, customs, postal and telegraph services, and officials of courts.

- (1) In its application to appointments to, and to persons serving in, the railway services of the Federation, the last preceding section shall have effect as if for any reference to the Governor-General in paragraph (a) of subsection (1), in paragraph (a) of subsection (2) and in subsection (5) there were substituted a reference to the Federal Railway Authority.
- (2) In framing rules for the regulation of recruitment to superior railway posts, the Federal Railway Authority shall consult the Federal Public Service Commission, and in recruitment to such posts and in recruitment generally for railway purposes shall have due regard to the past association of the Anglo-Indian community with railway services in India, and particularly to the specific class, character and numerical percentages of the posts hitherto held by members of that community and the remuneration attaching to such posts, and shall give effect to any instructions which may be issued by the Governor-General for the purpose of securing, so far as practicable to each community in India a fair representation in the railway services of the Federation, but, save as aforesaid, it shall not be obligatory on the Authority to consult with, or otherwise avail themselves of the services of, the Federal Public Service Commission.
- (3) In framing the rules for the regulation of recruitment to posts in the customs, postal and telegraph services, the Governor-General or person authorised by him in that behalf shall have due regard to the past association of the Anglo-Indian community with the said services, and particularly to the specific class, character and numerical percentages of the posts previously held in the said services by members of the said community and to the remuneration attaching to such posts.
- (4) In its application to appointments to, and to persons serving on, the staff attached to the Federal Court or the staff attached to a High Court, the said section shall have effect

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as if, in the case of the Federal Court, for any reference to the Governor-General in paragraph (a) of subsection (1), in paragraph (a) of subsection (2) and in subsection (5) there were substituted a reference to the Chief Justice of India and as if, in the case of a High Court, for any reference to the Governor in paragraph (b) of subsection (1), in paragraph (b) of subsection (2) and in subsection (5) there were substituted a reference to the chief justice of the court:

Provided that—

- (a) in the case of the Federal Court, the Governor-General and, in the case of a High Court, the Governor may in his discretion require that in such cases as he may in his discretion direct no person not already attached to the court shall be appointed to any office connected with the court save after consultation with the Federal Public Service Commission, or the Provincial Public Service Commission, as the case may be;
- (b) rules made under the said subsection (2) by a chief justice shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor-General or, as the case may be, the Governor.

243 Special provisions as to police.

Notwithstanding anything in the foregoing provisions of this chapter, the conditions of service of the subordinate ranks of the various police forces in India "shall be such as may be determined by or under the Acts relating to those forces respectively.

Recruitment by Secretary of State and provisions as to certain posts.

244 Services recruited by Secretary of State.

- (1) As from the commencement of Part III of this Act appointments to the civil services known as the Indian Civil Service, the Indian Medical Service (Civil), and the Indian Police Service (which last-mentioned service shall thereafter be known as " the Indian Police ") shall, until Parliament otherwise determines, be made by the Secretary of State.
- (2) Until Parliament otherwise determines, the Secretary of State may also make appointments to any service or services which at any time after the said date he may deem it necessary to establish for the purpose of securing the recruitment of suitable persons to fill civil posts in connection with the discharge of any functions of the Governor-General which the Governor-General is by or under this Act required to exercise in his discretion.
- (3) The respective strengths of the said services shall be such as the Secretary of State may from time to time prescribe, and the Secretary of State shall in each year cause to be laid before each House of Parliament a statement of the appointments made thereto and the vacancies therein.
- (4) It shall be the duty of the Governor-General to keep the Secretary of State informed as to the operation of this section, and he may after the expiration of such period as he thinks fit make recommendations for the modification thereof.

In discharging his functions under this subsection, the Governor-General shall act in his discretion.

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245 Special provision as to irrigation.

Until Parliament otherwise determines, the Secretary of State may for the purpose of securing efficiency in irrigation in any Province, appoint persons to any civil service of, or civil post under, the Crown in India concerned with irrigation.

246 Reserved posts.

- (1) The Secretary of State shall make rules specifying the number and character of the civil posts under the Crown (other than posts in connection with any functions of the Governor-General which the Governor-General is by or under this Act required to exercise in his discretion), which, subject to the provisions of this subsection, are to be filled by persons appointed by the Secretary of State to a civil service of, or a civil post under, the Crown in India, and except under such conditions as may be prescribed in the rules no such post shall, without the previous sanction of the Secretary of State—
 - (a) be kept vacant for more than three months; or
 - (b) be filled otherwise than by the appointment of such a person as aforesaid; or
 - (c) be held jointly with any other such post.
- (2) Appointments and postings to the said posts (hereinafter in this Part of this Act referred to as "reserved posts") shall—
 - (a) in the case of posts in connection with the affairs of the Federation, be made by the Governor-General, exercising his individual judgment;
 - (b) in the case of posts in connection with the affairs of a Province, be made by the Governor of the Province, exercising his individual judgment.
- (3) All rules made under this section shall, so soon as may be after they are made, be laid before each House of Parliament and, if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule has been laid before it resolves that the rule shall be annulled, the rule shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

247 Conditions of service, pensions, &c. of persons recruited by Secretary of State.

- (1) The conditions of service of all persons appointed to a civil service or a civil post by the Secretary of State shall—
 - (a) as respects pay, leave and pensions, and general rights in regard to medical attendance, be such as may be prescribed by rules to be made by the Secretary of State;
 - (b) as respects other matters with respect to which express provision is not made by this chapter, be such as may be prescribed by rules to be made by the Secretary of State in so far as he thinks fit to make such rules, and, in so far and so long as provision is not made by such rules, by rules to be made, as respects persons serving in connection with the affairs of the Federation, by the Governor-General or some person or persons authorised by the Governor-General to make rules for the purpose and, as respects persons serving in connection with the affairs of a Province, by the Governor of the Province or some person or persons authorised by the Governor to make rules for the purpose:

Provided that no rule made under this subsection shall have effect so as to give to any person appointed to a civil service or civil post by the Secretary of State less favourable

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terms as respects remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service or was appointed to his post.

- (2) Any promotion of any person appointed to a civil service or a civil post by the Secretary of State or any order relating to leave of not less than three months of any such person, or any order suspending any such person from office shall, if he is serving in connection with the affairs of the Federation, be made by the Governor-General exercising his individual judgment and, if he is serving in connection with the affairs of a Province, be made by the Governor exercising his individual judgment.
- (3) If any such person as aforesaid is suspended from office, his remuneration shall not during the period of his suspension be reduced except to such extent, if any, as may be directed by the Governor-General exercising his individual judgment or, as the case may be, by the Governor exercising his individual judgment.
- (4) The salary and allowances of any such person as aforesaid shall, if he is serving in connection with the affairs of the Federation, be charged on the revenues of the Federation and, if he is serving in connection with the affairs of a Province, be charged on the revenues of the Province:

 Provided that, if any such person is serving in connection with the railways in India, so much only of his salary and allowances shall be charged on the revenues of the Federation as is not paid out of the Railway Fund.
- (5) Pensions payable to or in respect of any such person as aforesaid, and government contributions in respect of any such person to any pension fund or provident fund, shall be charged on the revenues of the Federation.
- (6) No award of a pension less than the maximum pension allowable under rules made under this section shall be made, except in each case with the consent of the Secretary of State.
- (7) No rules made under this section shall be construed to limit or abridge the power of the Secretary of State to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable, and no rules made under this section by any person other than the Secretary of State shall be construed to limit or abridge the power of the Governor-General or, as the case may be, the Governor of a Province to deal with the case of any such person in such manner as may appear to him to be just and equitable :

Provided that, where any rule made under this section is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by the rule.

248 Rights in respect of complaints, appeals, &c.

- (1) If any person appointed to a civil service or a civil post by the Secretary of State is aggrieved by an order affecting his conditions of service and on due application to the person by whom the order was made does not receive the redress to which he considers himself entitled, he may, without prejudice to any other mode of obtaining redress, complain, if he is serving in connection with the affairs of the Federation, to the Governor-General and, if he is serving in connection with the affairs of a Province, to the Governor of the Province, and the Governor-General or Governor, as the case may be, shall examine into the complaint and cause such action to be taken thereon as appears to him exercising his individual judgment to be just and equitable.

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- (2) No order which punishes or formally censures any such person as aforesaid, or affects adversely his emoluments or rights in respect of pension, or decides adversely to him the subject-matter of any memorial, shall be made except, if he is serving in connection with the affairs of the Federation, by the Governor-General, exercising his individual judgment, or, if he is serving in connection with the affairs of a Province, by the Governor of that Province, exercising his individual judgment.
- (3) Any person appointed to a civil service or a civil post by the Secretary of State may appeal to the Secretary of State against any order made by any authority in India which punishes or formally censures him, or alters or interprets to his disadvantage any rule by which his conditions of service are regulated.
- (4) Any sums ordered to be paid out of the revenues of the Federation or a Province to or in respect of any such person as aforesaid on an appeal made under this section shall be charged on those revenues.

249 Compensation.

- (1) If by reason of anything done under this Act the conditions of service of any person appointed to a civil service or a civil post by the Secretary of State have been adversely affected, or if for any other reason it appears to the Secretary of State that compensation ought to be granted to, or in respect of, any such person, he or his representatives shall be entitled to receive from the revenues of the Federation, or if the Secretary of State so directs, from the revenues of a Province, such compensation as the Secretary of State may consider just and equitable.
- (2) Any sum payable under this section from the revenues of the Federation or the revenues of a Province shall be charged on the revenues of the Federation or, as the case may be, that Province.
- (3) For the avoidance of doubt it is hereby declared that the foregoing provisions of this section in no way prohibit expenditure by the Governor-General, or, as the case may be, the Governor, from the revenues of the Federation or a Province by way of compensation to persons who are serving or have served His Majesty in India in cases to which those provisions do not apply.

Provisions as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment.

250 Application of four last preceding sections to persons appointed by Secretary of State in Council, and certain other persons.

- (1) Subject to the provisions of this section, the provisions of the four last preceding sections and any rules made thereunder shall apply in relation to any person who was appointed before the commencement of Part III of this Act by the Secretary of State in Council to a civil service of, or a civil post under, the Crown in India as they apply in relation to persons appointed to a civil service or civil post by the Secretary of State.
- (2) Subject to the provisions of this section, the said sections and rules shall, in such cases and with such exceptions and modifications as the Secretary of State may decide, also apply in relation to any person who—
 - (a) not being a person appointed as aforesaid by the Secretary of State or the Secretary of State in Council, holds or has held a reserved post; or

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- (b) holds or has held any civil post under the Crown in India and is, or was when he was first appointed to such a post, an officer in His Majesty's forces.
- (3) In relation to any person who was appointed before the commencement of Part III of this Act to a civil service of, or to a civil post under, the Crown in India, the provision contained in the sections aforesaid that no rule as to conditions of service shall have effect so as to give to any person less favourable terms as regards remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service or was appointed to his post, shall be construed as a provision that no such rule shall have effect so as to give to any person less favourable terms as respects the said matters than were given to him by the rules in force immediately before the coming into operation of the rule.
- (4) In its application, by virtue of this section, to persons serving in the railway services of the Federation, the second of the four last preceding sections (which relates to the conditions of service, pensions, &c, of persons recruited by the Secretary of State) shall have effect as if for any reference to the Governor-General in paragraph (h) of subsection (1) thereof and in subsections (2), (3) and (7) thereof there were substituted a reference to the Federal Railway Authority.
- (5) Any liability of the Federation or of any Province to or in respect of any person appointed before the commencement of Part III of this Act by the Secretary of State in Council to a civil service of, or a civil post under, the Crown in India, being a liability to pay a pension granted to or in respect of any such person or any other liability of such a nature as to have been enforceable in legal proceedings against the Secretary of State in Council if this Act had not been passed, shall, notwithstanding anything in this Act, be deemed, for the purposes of the provisions of Part VII of this Act relating to legal proceedings, to be a liability arising under a statute passed before the commencement of Part III of this Act.

*Special provisions as to staffs of the High Commissioner
for India and the Auditor of Indian Home Accounts.*

251 Staff of High Commissioner and Auditor of Indian Home Accounts.

The provisions of this Part of this Act shall apply in relation to appointments to, and to persons serving on, the staffs of the High Commissioner for India and the Auditor of Indian Home Accounts as if the service of members of those staffs were service rendered in India :

Provided that—

- (a) appointments to the staff of the Auditor of Indian Home Accounts shall be made by him subject, as respects numbers, salaries and qualifications, to the approval of the Governor-General in his discretion; and
- (b) in relation to that staff the functions of the Governor-General under this Part of this Act shall be exercised by him in his discretion.

252 Conditions of service of existing staff of High Commissioner and Auditor of Indian Home Accounts.

- (1) All persons who immediately before the commencement of Part III of this Act were members of the staff of the High Commissioner for India, or members of the staff of the Auditor of the accounts of the Secretary of State in Council, shall continue to be,

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or shall become, members of the staff of the High Commissioner for India or, as the case may be, of the Auditor of Indian Home Accounts.

- (2) All such persons as aforesaid shall hold their offices or posts subject to like conditions of service as to remuneration, pensions or otherwise, as theretofore, or not less favourable conditions, and shall be entitled to reckon for purposes of pension any service which they would have been entitled to reckon if this Act had not been passed.
- (3) The salaries, allowances and pensions payable to, or in respect of, such of the persons aforesaid as were members of the staff of the Auditor of the accounts of the Secretary of State in Council shall be charged on the revenues of the Federation, and the salaries, allowances and pensions payable to, or in respect of, other such persons as aforesaid shall be so charged in so far as those salaries, allowances and pensions would, but for the passing of this Act, have been payable without being submitted to the vote of the Legislative Assembly of the Indian Legislature.

Special Provisions as to Judicial Officers.

253 Judges of the Federal Court and High Courts.

- (1) The provisions of this chapter shall not apply to the judges of the Federal Court or of any High Court:

Provided that—

- (a) for the purposes of this section a member of any of the civil services of the Crown in India who is acting temporarily as a judge of a High Court shall not be deemed to be a judge of that court;
 - (b) nothing in this section shall be construed as preventing the Orders in Council relating to the salaries, leave and pensions of judges of the Federal Court, or of any High Court, from applying to such of those judges as were, before they were appointed judges, members of a civil service of the Crown in India, such of the rules relating to that service as may appear to His Majesty to be properly applicable in relation to them;
 - (c) nothing in this section shall be construed as excluding the office of judge of the Federal Court or of a High Court from the operation of the provisions of this chapter with respect to the eligibility for civil office of persons who are not British subjects.
- (2) Any pension which under the rules in force immediately before the commencement of Part III of this Act was payable to or in respect of any person who, having been a judge of a High Court within the meaning of this Act or of the High Court at Rangoon, retired before the commencement of the said Part III shall, notwithstanding anything in this Act or the Government of Burma Act, 1935, continue to be payable in accordance with those rules and shall be charged on the revenues of the Federation.
 - (3) Any liability of the Federation or of any Province to or in respect of any person who is, at the commencement of Part III of this Act, a judge of a High Court within the meaning of this Act, or to or in respect of any such person as is mentioned in subsection (2) of this section, being a liability to pay a pension granted to or in respect of any such person or any other liability of such a nature as to have been enforceable in legal proceedings against the Secretary of State in Council if this Act had not been passed, shall, notwithstanding anything in this Act or the Government of Burma Act, 1935, be deemed, for the purposes of the provisions of Part VII of this Act relating to legal

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proceedings, to be a liability arising under a statute passed before the commencement of Part III of this Act.

254 District judges, &c.

- (1) Appointments of persons to be, and the posting and promotion of, district judges in any Province shall be made by the Governor of the Province, exercising his individual judgment, and the High Court shall be consulted before a recommendation as to the making of any such appointment is submitted to the Governor.
- (2) A person not already in the service of His Majesty shall only be eligible to be appointed a district judge if he has been for not less than five years a barrister, a member of the Faculty of Advocates in Scotland, or a pleader and is recommended by the High Court for appointment.
- (3) In this and the next succeeding section the expression " district judge " includes additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, sessions judge, additional sessions judge, and assistant sessions judge.

255 Subordinate civil judicial service.

- (1) The Governor of each Province shall, after consultation with the Provincial Public Service Commission and with the High Court, make rules defining the standard of qualifications to be attained by persons desirous of entering the subordinate civil judicial service of a Province.

In this section, the expression " subordinate civil judicial service " means a service consisting exclusively of persons intended to fill civil judicial posts inferior to the post of district judge.

- (2) The Provincial Public Service Commission for each Province, after holding such examinations, if any, as the Governor may think necessary, shall from time to time out of the candidates for appointment to the subordinate civil judicial service of the Province make a list or lists of the persons whom they consider fit for appointment to that service, and appointments to that service shall be made by the Governor from the persons included in the list or lists in accordance with such regulations as may from time to time be made by him as to the number of persons in the said service who are to belong to the different communities in the Province.
- (3) The posting and promotion of, and the grant of leave to, persons belonging to the subordinate civil judicial service of a Province and holding any post inferior to the post of district judge, shall be in the hands of the High Court, but nothing in this section shall be construed as taking away from any such person the right of appeal required to be given to him by the foregoing provisions of this chapter, or as authorising the High Court to deal with any such person otherwise than in accordance with the conditions of his service prescribed thereunder.

256 Subordinate criminal magistracy.

No recommendation shall be made for the grant of magisterial powers or of enhanced magisterial powers to, or the withdrawal of any magisterial powers from, any person save after consultation with the district magistrate of the district in which he is working, or with the Chief Presidency magistrate, as the case may be.

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Special Provisions as to Political Department.

257 Officers of political department.

- (1) Subject to the provisions of this section, the provisions of this Part of this Act shall not apply in relation to persons wholly or mainly employed in connection with the exercise of the functions of the Crown in its relations with Indian States.
- (2) Notwithstanding anything in the preceding subsection, all persons so employed immediately before the commencement of Part III of this Act shall hold their offices or posts subject to the like conditions of service as to remuneration, pensions or otherwise as theretofore or not less favourable conditions, and in relation to those persons anything which might, but for the passing of this Act, have been done by or in relation to the Secretary of State in Council shall be done by or in relation to the Secretary of State, acting with the concurrence of his advisers.
- (3) Nothing in this section shall be construed as affecting the application to such persons of the rule of law that, except as otherwise provided by statute, every person employed under the Crown holds office during His Majesty's pleasure.

Provisions for the protection of certain existing officers.

258 Provisions for protection of existing officers of certain Services.

- (1) No civil post which, immediately before the commencement of Part III of this Act, was a post in, or a post required to be held by some member of, a Central Service Class I, a Central Service Class II, a Railway Service Class I, a Railway Service Class II, or a Provincial Service, shall, if the abolition thereof would adversely affect any person who immediately before the said date was a member of any such service, be abolished, except—
 - (a) in the case of a post in connection with the affairs of the Federation, by the Governor-General exercising his individual judgment;
 - (b) in the case of a post in connection with the affairs of a Province, by the Governor of the Province exercising his individual judgment.
- (2) No rule or order affecting adversely the pay, allowances or pensions payable to, or in respect of, a person appointed before the coming into operation of this Part of this Act to a Central Service Class I, to a Railway Service Class I, or to a Provincial service, and no order upon a memorial submitted by any such person, shall be made except—
 - (a) in the case of a person who is serving or has served in connection with the affairs of the Federation, by the Governor-General exercising his individual judgment;
 - (b) in the case of a person who is serving or has served in connection with the affairs of a Province, by the Governor of the Province exercising his individual judgment.
- (3) In relation to any person mentioned in this section who was appointed to a civil service of, or civil post under, the Crown in India by the Secretary of State or the Secretary of State in Council, or is an officer in His Majesty's forces, the foregoing provisions of this section shall have effect as if for the reference to the Governor-General or the Governor, as the case may be, there was substituted a reference to the Secretary of State.

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259 Provisions as to certain persons serving in or before 1924.

- (1) The salary and allowances of any person who was appointed before the first day of April, nineteen hundred and twenty-four, otherwise than by the Secretary of State in Council, to a service or a post which at any time between that date and the coming into operation of this Part of this Act was classified as a superior service or post shall be charged, if he is serving in connection with the affairs of the Federation, on the revenues of the Federation and, if he is serving in connection with the affairs of a Province, on the revenues of that Province:

Provided that, if any such person as aforesaid is serving in connection with the railways in India, so much only of his salary and allowances shall be charged on the revenues of the Federation as is not paid out of the railway fund.

- (2) Any pension payable to or in respect of a person appointed as aforesaid, and any government contributions to any provident fund or pensions fund in respect of any such person, shall be charged on the revenues of the Federation.
- (3) The provisions of the last preceding subsection shall also apply in relation to persons who retired before the first day of April, nineteen hundred and twenty-four, and before they retired belonged to services or held posts which were as from the said date classified as superior services or posts, or which are declared by the Secretary of State to have been services or posts equivalent in character to services or posts so classified.

260 General provisions as to persons retiring before commencement of Part III.

- (1) Except as otherwise expressly provided in this chapter, any pension payable to or in respect of any person who, having been appointed to a civil service of, or a civil post under, the Crown in India, retired from the service of His Majesty before the commencement of Part III of this Act shall, if it would have been payable by the Local Government in any Province if this Act had not passed, be paid out of the revenues of the corresponding Province and in any other case shall be paid out of the revenues of the Federation.
- (2) Any pension payable to or in respect of any person who, having served in Burma or Aden, retired from an All-India Service, a Central Service Class I, a Central Service Class II, a Railway Service Class I, or a Railway Service Class II, before the commencement of Part III of this Act shall be paid out of the revenues of the Federation, but save as aforesaid nothing in this section applies to any person who retired after service in Burma or Aden.

Miscellaneous.

261 Secretary of State to act with concurrence of his advisers.

The powers conferred by this and the subsequent chapters of this Part of this Act on the Secretary of State shall not be exercisable by him except with the concurrence of his advisers.

262 Eligibility for office of persons who are not British subjects.

- (1) The Ruler or a subject of a Federated State shall be eligible to hold any civil office under the Crown in India in connection with the affairs of the Federation, and the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Governor-General may declare that the Ruler or any subject of a specified Indian State which is not a Federated State, or any native of a specified tribal area or territory adjacent to India, shall be eligible to hold any such office, being an office specified in the declaration.

- (2) The Governor of a Province may declare that the Ruler or any subject of a specified Indian State, or any native of a specified tribal area or territory adjacent to India, shall be eligible to hold any civil office in connection with the affairs of the Province, being an office specified in the declaration.
- (3) The Secretary of State may declare that any named subject of an Indian State, or any named native of a tribal area or territory adjacent to India, shall be eligible for appointment by him to any civil service under the Crown in India to which he makes appointments, and any person who, having been so declared eligible, is appointed to such a service, shall be eligible to hold any civil office under the Crown in India.
- (4) Subject as aforesaid and to any other express provisions of this Act, no person who is not a British subject shall be eligible to hold any office under the Crown in India:

Provided that the Governor-General or, in relation to a Province, the Governor may authorise the temporary employment for any purpose of a person who is not a British subject.

- (5) In the discharge of his functions under this section the Governor-General or the Governor of a Province shall exercise his individual judgment.

263 Joint services and posts.

If an agreement is made between the Federation and one or more Provinces, or between two or more Provinces, for the maintenance or creation of a service common to the Federation and one or more Provinces, or common to two or more Provinces, or for the maintenance or creation of a post the functions whereof are not restricted to the affairs of the Federation or one Province, the agreement may make provision that the Governor-General or any Governor, or any Public Service Commission, shall do in relation to that service or post anything which would under the provisions of this chapter be done by the Governor or the Provincial Public Service Commission if the service or post was a service or post in connection with the affairs of one Province only.