

## OVERSEAS SERVICES ORDINANCE

### No. 18 of 1961

An Ordinance to ratify and confirm the Overseas Service (North Borneo) Agreement, 1961, and to provide for matters connected therewith.

#### Date of Commencement.

[1st April, 1961]

ENACTED by the Legislature of North Borneo as follows:-

#### Short title and commencement.

1. This Ordinance may be cited as the Overseas Service Ordinance, 1961, and shall be deemed to have come into force on the 1st day of April, 1961.

#### Ratification of agreement.

2. The Agreement entitled the Overseas Service (North Borneo) Agreement, 1961 (in this Ordinance referred to as the Agreement), and set out in the Schedule is hereby ratified and confirmed.

#### Charge on general revenues.

3. From and after the 1st day of April, 1961, there shall be charged upon and paid out of the general revenues of North Borneo the sums required for ensuring the payment to each designated officer (as defined in the Agreement) of the sums referred to in clause 2 of the Agreement, for the purposes therein mentioned.

SCHEDULE.

SERVICE WITH OVERSEAS GOVERNMENTS: AGREEMENT BETWEEN GOVERNMENT OF NORTH BORNEO AND GOVERNMENT OF GREAT BRITAIN AND NORTHERN IRELAND.

WHEREAS the Government of North Borneo considers that it would be in the public interest to employ and continue to employ in the public service certain officers from other countries.

AND WHEREAS Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the Government of the United Kingdom) is prepared to contribute to that part of the cost of employing such officers as is attributable to the fact that such officers will be serving outside their own countries;

NOW, THEREFORE, it is agreed between Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland and the Government of North Borneo as follows:-

1. In this Agreement unless the context otherwise requires:-

"appointed day" means the first day of April 1961;

"child" means the son or daughter of a designated officer, including a stepson, stepdaughter, adopted son or adopted daughter, not having passed his or her nineteenth birthday and being unmarried and wholly dependent upon the designated officer;

"compensation" means any sum of money, not being a pension or the commutation thereof or a gratuity, which is payable by the Government of North Borneo on or after the appointed day, either in one payment or by instalments, including any sum payable by way of interest thereon or any additions to or any sum paid by way of commutation of additions to a pension, to a designated officer by virtue of arrangements for payment of compensation approved by a Secretary of State for the purpose of this Agreement;

"contract officer" means a designated officer who is on or after the appointed day a party to a contract of service in writing with the Government of North Borneo and whose service under that contract does not qualify him for a pension;

“designated officer” means an officer designated as such by a Secretary of State who is –

- (i) an expatriate officer in the service of the Government of North Borneo on or after the appointed day and
- (ii) who –
  - (a) is a member of Her Majesty’s Overseas Civil Service; or
  - (b) was selected for appointment by or with the approval of a Secretary of State, or was recruited by the Crown Agents for Oversea Governments and Administrations; or
  - (c) was otherwise recruited to a post for which a normal channel of recruitment is either the Colonial Office or the Crown Agents for Oversea Governments and Administrations and whose appointment for the purpose of this Agreement is approved by a Secretary of State;

“gratuity” means the sum payable to a contract officer in addition to salary and allowances under his contract of service and described as such therein or in laws or regulations applicable thereto, in return for services rendered, whether such sum is paid at the conclusion of that service or otherwise;

“passage” means transportation of a designated officer, his wife, children and effects by such means, by such routes, in such classes of accommodation and in accordance with such conditions as the Government of North Borneo may with the concurrence of Her Majesty’s Government prescribe;

“pension” means the pension payable to a designated officer under the pensions laws and regulations applicable to him, and in the case of an officer in the service of the Government of the former State of North Borneo who gave notice pursuant to subsection (2) of section 18 of the Pensions Ordinance under the Pensions Scheme applicable to him, including any sum paid to him by way of commutation of such pension, but excluding any compensation;

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State in the United Kingdom.

2. In the event of the Government of North Borneo on or after the appointed day paying the allowances and providing for the passages referred to in clause 3 of this Agreement, the Government of the United Kingdom will, in accordance with such

procedure as may mutually be agreed between the said two Governments, reimburse the Government of North Borneo the following sums:-

- (a) the aggregate amount of the allowances, referred to in paragraphs (a) and (b) of clause 3 of this Agreement, and paid to designated officers less the sum agreed by the said two Governments as being equivalent to the proceed of taxation received by the Government of North Borneo on the inducement allowance referred to in paragraph (a) of clause 3 of this Agreement and paid to designated officers;
- (b) one half of the aggregate amount paid by the Government of North Borneo in providing for designated officers the passages referred to in paragraph (c) of clause 3 of this Agreement;
- (c) one half of the aggregate amount paid by the Government of North Borneo as compensation to designated officers;
- (d) that part of any gratuity paid by the Government of North Borneo to a designated officer which accrues to that officer by virtue of the addition to his emoluments, after the appointed day, of the inducement allowance referred to in paragraph (a) of clause 3 of this Agreement;
- (e) that part of any pension paid by the Government of North Borneo to a designated officer which accrues to that officer by virtue of the addition to his pensionable emoluments, after the appointed day, of the inducement allowance referred to in paragraph (a) of clause 3 of this Agreement which shall bear the same proportion to the total pension payable to that officer by the Government of North Borneo as the total amount of inducement allowance as aforesaid paid to him by the Government of North Borneo bears to the aggregate pensionable emoluments earned by him, before or after the appointed day while in the public service of North Borneo.

3. The allowances and passages mentioned in clause 2 of this Agreement are as follows:-

- (a) an inducement allowance at such annual rate as may be specified by the Government of the United Kingdom;
- (b) any education allowance to which a designated officer may be entitled under conditions specified from time to time by the Government of the United Kingdom;

- (c) passages on such occasions as the Government of North Borneo may with the concurrence of the Government of the United Kingdom prescribe.

4. The Government of the United Kingdom and the Government of North Borneo will each take such steps as may be necessary to exempt the allowance referred to in paragraph (b) of clause 3 of this Agreement from the operation of any income-tax law for the time being in force in their respective territories.

5. (1) On or before the 1st day of October in each year the Government of North Borneo will provide the Government of the United Kingdom with such information, including information concerning any variation in the numbers of designated officers which results from the establishment requirements of the Government of North Borneo, as the Government of the United Kingdom may require to calculate the amounts payable by the Government of the United Kingdom under clause 2 of this Agreement during the ensuing financial year of the Government of the United Kingdom.

(2) The Government of North Borneo will, whenever requested so to do by the Government of the United Kingdom, supply to the Government of the United Kingdom such accounts and other information in connection with the operation of this Agreement as may be specified in such request.

6. The Government of North Borneo will consult the Government of the United Kingdom before effecting any changes in policy which might affect the recruitment, terms of service and numbers of designated officers so as to vary the amounts reimbursable by the Government of the United Kingdom under clause 2 of the Agreement.

7. Subject to the provisions of clauses 5 and 6 of this Agreement, nothing in this Agreement shall affect the right of the Government of North Borneo to vary its dispositions or requirements of officers in its public service as it sees fit.

8. This Agreement shall terminate, unless some other date is agreed between the Government of North Borneo and the Government of the United Kingdom on the 31st day of March, 1971:

Provided that

- (i) this Agreement shall not be terminated on a date earlier than the 31st March, 1971, unless all the obligations arising thereunder, other than

those in respect of pensions referred to in paragraph (e) of clause 2 of this Agreement, have been discharged; and

- (ii) the termination of this Agreement shall not affect the liability of the Government of the United Kingdom to make the reimbursements in respect of pensions referred to in paragraph (e) of clause 2 of this Agreement.

9. This Agreement shall come into operation on the appointed day, and may be cited as The Overseas Service (North Borneo) Agreement 1961.

Done in duplicate in London this fourth day of September, 1961, and in Jesselton this eleventh day of September, 1961.

For the Government of the United  
Kingdom of Great Britain and Northern  
Ireland:

NORMAN LEACH

For the Government of North  
Borneo:

A. M. GRIER

Passed this 13th day of September, 1961.

R. A. LIND,  
*Clerk of Legislative Council.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct copy of the said Bill.

R. A. LIND,  
*Clerk of Legislative Council.*