

No. 12699

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

Exchange of notes constituting an agreement relating to pensions and compensation for officers designated by the Government of the United Kingdom in the service of the State Government of Sabah or of Sarawak. Kuala Lumpur, 14 December 1972

Authentic text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 28 August 1973.

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

Échange de notes constituant un accord relatif aux pensions et indemnités des fonctionnaires détachés auprès des Gouvernements des États de Sabah ou de Sarawak par le Gouvernement du Royaume-Uni. Kuala Lumpur, 14 décembre 1972

Texte authentique: anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 28 août 1973.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF MALAYSIA RELATING TO PENSIONS
AND COMPENSATION FOR OFFICERS DESIGNATED BY
THE GOVERNMENT OF THE UNITED KINGDOM IN THE
SERVICE OF THE STATE GOVERNMENT OF SABAH OR OF
SARAWAK

I

*The United Kingdom Acting High Commissioner at Kuala Lumpur
to the Chief Secretary to the Government of Malaysia*

BRITISH HIGH COMMISSION
KUALA LUMPUR

14 December 1972

My dear Chief Secretary,

Overseas pensions

1. I have the honour to refer to the correspondence and discussions which have taken place between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia relating to pensions and compensation payable to or in respect of designated officers in the service of the State Governments of Sabah or of Sarawak including designated officers on secondment to the Federal Public Service of Malaysia, and to place on record the terms of the agreement which was reached.

2. With effect from 1 April 1971 the Government of the United Kingdom shall reimburse the State Government of Sabah or the State Government of Sarawak, as the case may be, in accordance with such procedures as may be mutually arranged between the Governments concerned, the following proportions of any amount of a pension, gratuity or compensation payable on or after that date to or in respect of a designated officer by the State Government of Sabah or the State Government of Sarawak, that is to say:

- (a) subject to sub-paragraph (b), in the case of a pension or gratuity, such part of the pension or gratuity as bears the same proportion to the total pension or gratuity payable to or in respect of that officer by the State Government of Sabah or the State Government of Sarawak as the annual rate of pensionable inducement allowance enjoyed by him at the date of his retirement or transfer from the public service of the State Government of Sabah or the State Government of Sarawak, as the case may be, bears to the total pensionable emoluments enjoyed by him at that date;
- (b) (i) in the case of a pension or additional pension grant owing to injury or disease, or a pension granted owing to death resulting from an injury or disease, such part of such pension or additional pension as bears the same proportion to the whole of such pension or additional pension payable to or in respect of an officer by the State Government of Sabah or the State Government of Sarawak as the annual rate of pensionable inducement allowance enjoyed by him at the date when he sustained the injury or contracted the disease bears to the total pensionable emoluments enjoyed by him at that date;

¹ Came into force on 14 December 1972, the date of the note in reply, in accordance with the provisions of the said notes.

(ii) in the case of a gratuity granted owing to death during public service or after retirement, such part of such gratuity as bears the same proportion to the whole of such gratuity payable in respect of an officer by the State Government of Sabah or the State Government of Sarawak as the annual rate of pensionable inducement allowance enjoyed by him at the date of his death or retirement, as the case may be, bears to the total pensionable emoluments enjoyed by him at that rate;

(c) in the case of compensation, the whole amount.

3. In the present note the following words and expressions shall have the following meanings:

“compensation” means any sum of money, not being a pension or the commutation thereof or a gratuity, which is payable by the State Government of Sabah or the State Government of Sarawak, 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 or in respect of a designated officer by virtue of arrangements for the payment of compensation approved by a Secretary of State for the purpose of this Agreement;

“designated officer” means an officer designated as such in pursuance of the Overseas Service (North Borneo) Agreement 1961^{*}, the Overseas Service (Sarawak) Agreement 1961^{*}, the Overseas Service (Malaysia) Agreement 1964¹ or the Overseas Service (Malaysia) Agreement 1971²;

“pension” and “gratuity” means a pension or, as the case may be, gratuity, including a pension arising from death on duty, a pension or additional pension arising from injury or disease, a commuted pension gratuity, and a gratuity arising from death during service or after retirement, payable under the Pensions Laws of Sabah or Sarawak;

“pensionable inducement allowance” means any inducement allowance payable to an officer under the Overseas Service (North Borneo) Agreement 1961, the Overseas Service (Sarawak) Agreement 1961, the Overseas Service (Malaysia) Agreement 1964 or the Overseas Service (Malaysia) Agreement 1971 which is pensionable under the Pensions Laws of Sabah or of Sarawak;

“the Pensions Laws of Sabah or of Sarawak” means the Pensions Ordinance 1963 of North Borneo and the Pensions Ordinance (Cap 89) of Sarawak, and any Pensions Ordinances repealed by either of those Ordinances and any Ordinances enacted prior to 1 April 1971 amending or replacing the Pensions Ordinance 1963 of North Borneo or the Pensions Ordinance (Cap 89) of Sarawak and any Ordinances enacted after that date amending or replacing either of those Ordinances and accepted by the Government of the United Kingdom for the purpose of this Agreement.

4. If this note correctly sets out the terms which have been agreed I have the honour to suggest that this note and Your Excellency's reply to that effect shall constitute an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia which shall enter into force on the date of your reply and shall terminate on 31 March 1973.

Yours sincerely,

D. MC.D. GORDON
Acting High Commissioner

* Not published.

¹ United Nations, *Treaty Series*, vol. 552, p. 259.

² *Ibid.*, vol. 864, p. 47.

II

*The Chief Secretary to the Government of Malaysia to the United Kingdom
Acting High Commissioner at Kuala Lumpur*

Kuala Lumpur, 14th December, 1972

My dear Acting High Commissioner,

I have the honour to refer to your letter of 14th December, 1972 which reads as follows:

[See note I]

In reply, I have further the honour to confirm that your letter correctly sets out the terms which have been agreed and that your letter and this reply shall constitute an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia which shall enter into force on today's date and shall terminate on 31 March 1973.

Yours sincerely,

[Signed]

TAN SRI ABDUL KADIR BIN SHAMSUDDIN
Chief Secretary to the Government of Malaysia
