

FINANCE DEPARTMENT.

FINANCIAL DEPARTMENT.

(Supplementary Rules of the Fundamental Rules and the Civil Services Governors' Provinces Delegation Rules, 1926)

No. 12

Dated Rangoon, the 24th April 1928.

No. 12.- In exercise of the powers conferred by Rules 45 and 45A of the Fundamental Rules and Rule 4 (1) of the Civil Services (Governors' Provinces Delegation Rules, 1926, made by the Secretary of State in Council under section 96B of the Government of India Act, the Governor (in Council / with his Ministers) hereby makes the following rules supplementary thereto. For convenience of reference Fundamental Rules 45 and 45A are reproduced in this Notification with the relevant Supplementary Rules hereby made thereunder printed below the relevant provision in the Fundamental Rules in exercise of the powers conferred by which they are made.

Fundamental Rule 45.

A Local Government may make rules laying down the principles governing the allotment to officers serving under its administrative control, for use by them as residences, of such buildings owned or leased by it, or such portions thereof, as the Local Government may make available for the purpose. Such rules may lay down different principles for observance in different localities or in respect of different classes of residences, and may prescribe the circumstances in which such an officer shall be considered to be in occupation of a residence.

Local Government's Supplementary Rules.

- 1. Except when it is otherwise expressly provided in these rules an officer serving under the administrative control of the Local Government shall be considered to be in occupation of any residence owned or leased by it whenever such officer is in possession of the residence or any part or appurtenance thereof either by himself, his family, sub-tenant, servant, furniture or other effects Provided as follows:-
 - (1) That if the residence is appropriated to the post of which such officer is the incumbent, he shall be considered to be in occupation during the period of his incumbency.
 - (2) That when a residence is newly appropriated to a post or is allotted to an officer at his own request occupation shall be considered to commence from the date on which the officer concerned enters into possession of the residence or seven days from receipt by him of the order of appropriation or allotment whichever is earlier unless for reasons to be recorded in writing the Local Government prescribes any other date.
 - (3) That when a residence has been allotted to an officer at his own request his occupation shall be considered to terminate on the expiration of such notice to be given by such officer as the Local Government may prescribe or on the day when the residence is occupied by another officer, whichever is earlier.
- 2. Notwithstanding anything in any other rule no officer shall, unless in any case the Local Government otherwise directs, be considered to be in occupation of a residence by reason only of his incumbency of a post in any of the following cases, namely:-
 - (a) When some other officer is in occupation of the residence.
 - (b) When he is acting in the post to which the residence is appropriated and is discharging the duties thereof in addition to those of his substantive post.
 - (c) When in addition to the duties of the post to which the residence is appropriated he carries on the duties of another post which preclude him from entering into possession of the residence.
 - (d) When he has been transferred in the same station to the post to which the residence is appropriated and is excused by order of the Local Government from changing his residence.
 - (e) When he is officiating in a post for a period not exceeding two months and is prevented by circumstances which the Local Government considers sufficient to warrant an exception from occupying the residence.
 - (f) When for special reasons the Local Government expressly exempts him from liability to occupy the residence.
- 3. A permanent incumbent of a post who, during absence on leave or on duty elsewhere with a different headquarters from the station at which the residence appropriated to his post is situate, is permitted to store his furniture or other property in the residence shall not by reason only of such storage of furniture or effects be considered to be in occupation of the residence.

NOTE.- The permission required by this rule shall be given by the Superintending Engineer and only when both the following conditions are fulfilled:-

1. The temporary incumbent of the post does not require the residence and is not under these rules to be considered as in occupation thereof.
2. Arrangements cannot be made to allot the residence to another officer of appropriate status or to lease it during the absence of the permanent incumbent.

Fundamental Rule 45A, Clause I and Clause II, proviso (i).

- I. This rule applies, with effect from the 1st April 1924, to members of the Services and to Government servants holding the posts included in the Schedule to this rule and to Government servants who hold in a substantive capacity posts borne on the cadre of the services included therein.
- II. For the purpose of the assessment of rent, the capital cost of a residence owned by Government shall include the cost or value of sanitary, water-supply and electric installations and fittings, but exclude the cost or value of the site (including expenditure on its preparations); and shall be either-
 - (a) the cost of acquiring or constructing the residence and any capital expenditure incurred after acquisition or construction; or when this is not known,
 - (b) the present value of the residence.

NOTE.- The cost of restoration or special repairs shall not be added to capital cost of present value, unless such restoration or repairs add to accommodation or involve replacement of the existing type of work by work of a more expensive character.

Provided that-

- (i) a local Government may make rules providing the manner in which the present value of residences shall be determined;

Local Government's Supplementary Rules under proviso (i) to Clause II.

- 1. When the cost of acquiring or constructing a residence and the capital expenditure incurred after acquisition or construction is not known the present value of the residence shall be determined by the Chief Engineer to the Government of Burma (Buildings and Roads Branch).
- 2. In determining the present value of a residence regard shall be had to:-
 - (a) the capital cost, as determined under the Fundamental Rules, of other residences belonging to the Local Government with similar accommodation;
 - (b) the resulting rent; and
 - (c) the amount which, in the opinion of the Chief Engineer (Buildings and Roads Branch) the residence would have cost at the time it was constructed, but allowing for such subsequent additions or alterations as the case may require.

Fundamental Rule 45A, Clause II, proviso (ii).

(ii) a local Government may make rules determining what expenditure is to be regarded, for the purpose of sub-clause (a) above, as expenditure upon the preparation of a site;

Local Government's Supplementary Rules under proviso (ii) to Clause II.

Definition.

- 1. For the purpose of these rules the expression "site" includes, in addition to the area actually covered by the residence, the curtilage or compound occupied therewith.
- 2. The following expenditure shall be regarded as expenditure upon the preparation of a site, namely, expenditure incurred subsequent to acquisition in order to put the site into a state fit for the erection of all buildings comprising the residence, and in particular, the cost of-
 - (1) The demolition and removal of any building or structure which may be in existence on the site prior to the erection of the residence;
 - (2) The reclamation and levelling of the site and the clearing thereof including the cost of felling and removing trees and undergrowth; and
 - (3) The provision of retaining walls in connection with levelling operations.
- 3. The cost of the following items shall not be regarded as expenditure upon the preparation of a site:-
 - (1) Earthwork undertaken for foundations.
 - (2) Levelling (including retaining walls) or other work in connection with the construction of a tennis court or garden.
 - (3) Fencing.
 - (4) The construction outside the site of any road, drain or sewer or service main to any source of water or electricity.

Fundamental Rule 45A, Clause II, provisos (iii) to (vi).

- (iii) a local Government may, for reasons which should be recorded, authorize a revaluation of all residences of a specified class or classes within a specified area to be conducted under the rules referred to in proviso (i) above, and may revise the capital cost of any or all such residences on the basis of such revaluation;
- (iv) the capital cost, howsoever calculated, shall not take into consideration (1) any charges on account of establishment and tools and plant other than such as were actually charged direct to the work in cases in which the residence was constructed by Government, or (2) in other cases, the estimated amount of such charges;
- (v) a local Government may, for reasons which should be recorded, write off a specified portion of the capital cost of a residence-
 - (1) when a portion of the residence must be set aside, by the officer to whom the residence is allotted for the reception of official and non-official visitors visiting him on business, or
 - (2) when it is satisfied that the capital cost, as determined under the above rules, would be greatly in excess of the proper value of the accommodation provided;
- (vi) in assessing the cost or value of the sanitary, water-supply and electric installations and fittings, a local Government may by rules determine what are to be regarded as fittings for this purpose.

Local Government's Supplementary Rules under Proviso (vi) to Clause II.

- 1. For the purposes of Clause II of Fundamental Rule 45A the cost or, when this is not known, the present value of the sanitary water-supply and electrical installations and fittings shall be the cost or value (including the cost of fixing) of all appliances fitted either with the original installation or subsequently and of all accessories provided by Government down to the junction of the street mains but not including in the case of an electrical installation the service main between the Supply Company's main and the Company's meter. Provided that the cost of any replacement, improvement, or extension of an existing installation shall be included to the extent only to which in the opinion of the Chief Engineer to the Government of Burma (Buildings and Roads Branch) such cost represents items of a more expensive character or improve or extend the installation.
- 2. Fittings the cost of which under the last preceding rule is to be included in the assessment and which are common to more than one residence shall be charged to the several residences to which they appertain in such proportions as the Chief Engineer to the Government of Burma (Buildings and Roads Branch) may in each case determine.

Fundamental Rule 45A, clause III (a) and (b).

- III. The standard rent of a residence shall be calculated as follows:-
 - (a) In the case of leased residences the standard rent shall be the sum paid to the lessor plus an addition determined under rules which a local Government may make, for meeting, during the period of lease, such charges for both ordinary and special maintenance and repairs and for capital expenditure on additions or alterations as may be a charge on Government and for the interest on such capital expenditure, as also for municipal and other taxes payable by Government.
 - (b) In the case of residences owned by Government, the standard rent shall be calculated on the capital cost of the residence, and shall be either-
 - (i) a percentage of such capital cost equal to such rate of interest as may from time to time be fixed by the Secretary of State in Council plus an addition for municipal and other taxes payable by Government and for both ordinary and special maintenance and repairs, such addition being determined under rules which a local Government may make, or
 - (ii) 6 per cent. per annum of such capital costs, whichever is less.

Local Government's Supplementary Rules under Clause III (b) (i).

Definitions.

- 1. In these rules, unless the context otherwise requires-
 - (a) "Addition" means the addition on account of municipal and other taxes payable by Government and for both ordinary and special maintenance and repairs for the purpose of the calculation of standard rents.
 - (b) "Capital cost" means the capital cost of a residence as determined under Fundamental Rule 45A-II.
- 2. For the purpose of calculating the addition residences owned by Government shall be divided into structural classes in accordance with the Schedule hereto. The addition shall be dependent on the structural class into which the residence falls and shall be the percentage of its capital cost which is shown in column 6 of the Schedule.
- 3. In case of doubt as to the structural class into which a residence falls the mattes shall be determined by the (chief Engineer to the Government of Burma Buildings and Roads Branch).

Schedule

Structural Class.	Description of Building.				Percent addition fc by Gove
	Walls	Floor.	Roof.	Doors and windows.	
(1)	(2)	(3)	(4)	(5)	
I	Brick work or masonry or brick nogging.	Pucca floor or tongued and grooved teak planks	Concrete tiles, corrugated iron or teak shingles.	Teak or other approved timber.	
II	Teak or pyin-gado posts resting on brick footings or inserted in the ground with teak plank walling	Do.	Do.	Do.	
III	Teak or pyin-gado posts as in Class II with mat walling.	Butt jointed planking usually in timber inferior to teak.	Teak shingles	Do.	

Fundamental Rule 45A, Clause III (c).

(c) In both cases standard rent shall be expressed as standard for a calendar month and shall be equal to one-twelfth of the annual rent as calculated above, subject to the proviso that, in special localities or in respect of special classes of residence, a local Government may fix a standard rent to cover a period greater than one month but not greater than one year. Where a local Government takes action under this proviso standard rent so fixed shall not be a larger proportion of the annual rent than the proportion which the period of occupation as prescribed under clause I above bears to one year.

NOTE 1.- For the purpose of sub-clauses (a) and (b) above, the additions for both ordinary and special maintenance and repairs shall not include anything for the establishment and tools and plant charges except to the extent allowed under proviso (iv) to clause II.

NOTE 2.- A local Government may by rule permit minor additions and alterations, the cost of which does not exceed a prescribed percentage of the capital cost of the residence, to be made during such period as the rule may determine, without the rent of the residence being increased.

Local Government's Supplementary Rules under Note 2 to Clause III (c).

- 1. A minor addition or alteration may be made to a residence owned by Government without the rent of the residence being increased when both the following conditions are fulfilled, namely:-
 - (i) The cost of the minor addition or alteration plus the cost of all minor additions and alterations made under these rules to the same residence during a period of three years preceding the making of such alteration or addition does not exceed the percentages of the capital cost of the residence noted below, namely,-
 - (a) Where the capital cost is Rs. 10,000 or less, one per cent.
 - (b) Where the capital cost exceeds Rs. 10,000 one half per cent. Provided that any addition or alteration which would be permissible under this rule the capital cost were Rs. 10,000 or less shall be permissible notwithstanding that such capital cost may exceed Rs. 10,000.
 - (ii) The addition or alteration does not increase the residential accommodation of the building or create a precedent which may prove inconvenient.
- 2. Nothing in these rules shall be construed to give the occupier of any residence the right to have any addition or alteration made save such as may be sanctioned by competent authority.
- 3. In these rules "capital cost" means the capital cost of the building as determined under Rule 45A of the Fundamental Rules at the time of the alteration or addition.

Fundamental Rule 45A, Clauses IV to VI.

- IV. When Government supplies an officer with a residence leased or owned by Government, the following conditions shall be observed:-
 - (a) The scale of accommodation supplied shall not, except at the officer's own request, exceed that which is appropriate to the status of the occupant.
 - (b) Unless in any case it be otherwise expressly provided in these rules, he shall pay rent for the residence, and such rent shall be the standard rent as defined in clause III above or 10 per cent. of his monthly emoluments, whichever is less.
 - (c) Nothing contained in clause (b) above shall operate to prevent a local Government from-
 - (i) grouping, after the standard rents have been calculated under the provisions of clause III above, a number of residences whether in a particular area or of a particular class or classes, for the purpose of assessment of rent, subject to the following conditions being fulfilled:-
 - (1) that the basis of assessment is uniform; and
 - (2) that the amount taken from any officer shall not exceed 10 per cent. of his monthly emoluments;
 - (ii) taking a rent in excess of that prescribed in sub-clause (b) above from an officer-

- (1) who is not required or permitted to reside on duty at the station at which the residence is supplied to him, or
- (2) who, at his own request is supplied with accommodation which exceeds that which is appropriate to the status of the post held by him, or
- (3) who is in receipt of a compensatory allowance granted on account of dearness of living.

- V. In special circumstances, for reasons which should be recorded, a local Government-
 - (a) may, by general or special order, grant rent free accommodation to any officer, or class of officers, or
 - (b) may, by special order, waive or reduce the amount of rent to be recovered from any officer.
- VI. If a residence is supplied with services, other than water-supply, sanitary or electric installations and fittings, such as furniture, tennis court, or garden maintained at the cost of Government, rent shall be charged for these in addition to the rent payable under clause IV. The tenant will also be required to pay meter hire and the cost of the water, electric energy, etc., consumed. A local Government may make rules prescribing how the additional rents and charges shall be determined, and such rules may also authorize the remission or reduction of the additional rent or charge in special circumstances for reasons which should be recorded.

Local Government's Supplementary Rules under Clause VI.

Existing rules and orders confirmed.

- 1. All rules and orders at present in force regulating the determination of rents and charges on account of the supply of services to residences occupied by officers to whom Rule 45A of the Fundamental Rules applies shall in so far as they are not inconsistent with any statutory rule or order remain in force and have effect as if they were incorporated in these rules.

Rent of permanent tennis courts.

- 2. When a residence to which this rule applies is supplied with a cement, gravel or other tennis court of a permanent nature, rent shall be charged therefor at the rate of 5 per centum per annum as its value such value being determined by the Chief Engineer to the Government of Burma (Buildings and Roads Branch) as follows:-
 - (a) In the case of a tennis court completed before the 3rd day of August 1927, as the basis of the cost of construction of a similar tennis court on that day.
 - (b) In the case of a tennis court completed on or after the 3rd day of August 1927, on the basis of the actual cost of construction of that tennis court plus such addition for improvements subsequently made as the said Chief Engineer may from time to time determine.

Maintenance charges.

- 3. In addition to the rent prescribed in the last preceding rule a maintenance charge of Rs. 3 per mensem shall be levied in respect of every tennis court to which that rule applies.

NOTE.- This charge is intended to include the cost of maintenance by Government of the Court itself and of back posts and fixed screens or fences but not the supply of tennis nets or moveable screens.

Non-permanent courts.

- 4. When a tennis court of a non-permanent nature is either constructed or repaired for the officer in occupation of a residence and these rules apply the rent of such tennis court shall be the actual cost to Government of such construction or repairs and shall be recovered at the time of expenditure in one sum from such officer. No further rent or maintenance charge shall be levied. Provided as follows:-
 - (a) No such tennis court shall be either constructed or repaired except at the request of such officer;
 - (b) No charge shall be made on account of establishment, tools or plant; and
 - (c) The Chief Engineer to the Government of Burma (Buildings and Roads Branch) shall determine whether any court is to be regarded for the purposes of this rule as of a non-permanent nature.

Distribution of rents of communal courts.

- 5. When a tennis court is supplied for the use of the occupiers of more than one residence the rent and maintenance charges shall be distributed equally between the occupiers of all such residences.

Provision for remission or reduction of charges.

- 6. The rents and charges leviable under these rules or under any of the rules and orders deemed to be incorporated herein may in special circumstances for reasons which should be recorded be remitted or reduced by order of the Local Government.

Fundamental Rule 45A, Clause VII.

- VII. A local Government may by rule prescribe that this rule shall apply, with effect from any date not earlier than the 1st of April 1924, to any Government servant or class of Government servants other than those mentioned in the rule.

Local Government's Supplementary Rules under Clause VII.

- 1. All existing orders relating to the rent payable by members of provincial and subordinated services and by officers holding special posts in respect of residences owned or leased by the Local Government in so far as such orders are not inconsistent with these rules are hereby confirmed.

Explanation.- Any order under which rent is being assessed shall be deemed to be an existing order for the purpose of this rule.

- 2. Rule 45A of the Fundamental Rules shall apply, with effect from the 1st April 1924 to all Military officers holding the King's Commission serving with the Burma Military Police and to all officers of the Royal Indian Marine serving in Burma.

- 3. Rule 45A of the Fundamental Rules shall apply, with effect from the 1st April 1924, to all officers recruited for the Burma Forest Service, Class I, the Burma Engineering Service, Class I, and the Burma Educational Service, Class I, serving in a temporary capacity pending the constitution of those services and to all covenanted temporary Engineers in the Burma Public Works Department. Provided in every case that the Government servant concerned is still in the Service of the Crown in India on the date when these rules are made or has retired therefrom on pension or gratuity before the latter date.

- 4. Rule 45A of the Fundamental Rules shall apply, with effect from the 3rd day of August 1927, to all Government servants in occupation of residences owned or leased by the Local Government who are not mentioned in Rule 45A of the Fundamental Rules or in either of the last two preceding rules. Provided that the said rule shall

not by virtue of this rule apply to any Government servant who being of a status similar to that of a member of a provincial or subordinate service claims any refund of rent in respect of the occupation by him of any residence owned or leased by the Local Government for the period from the 3rd August 1927 until the date with effect from which the revised rent under Rule 45A of the Fundamental Rules for any such residence occupied by him is first applied.

5. Rule 45A of the Fundamental Rules shall apply, with effect from such date as the Local Government may by notification in the Burma Gazette, prescribe to all Government servants mentioned in Rule 1.

Fundamental Rule 45A Clause VIII.

VIII. Nothing contained in this rule shall so operate as to require payment of rent, for the occupation of residences supplied by Government, by those servants of the Crown in India who have been exempted from such payment by order of the Secretary of State in Council, or to affect the amount of rent or charges payable by those servants of the Crown in India, in whose case the amount so payable is prescribed by the Secretary of State in Council.

A.E. GILLIAT,
Secretary to the Govt. of Burma,
Finance Dept.