

PROVINCIAL AFFAIRS SUBJECT TO APPROVAL OR AUTHORIZATION BY NATIONAL AUTHORITIES

Compiled by J.F.K.

1. Execution of deeds and contracts conveying title of real property—subject to approval of the President of the Philippines. (Sec. 2068, Adm. Code.)
2. Permission for official to absent himself from province—to be secured from Department Head. (Sec. 2073, Adm. Code; see Ex. Ord. 75, s. 1945.)
3. Vacancy in elective provincial office—temporary vacancy to be filled by appointment by the President; vacancy as a result of the death, resignation, removal or cessation of the incumbent, by appointment by the President of a suitable person belonging to the political party of the officer to be replaced upon the recommendation of said party; due to failure of election or failure to elect, by special elections; due to death of officer-elect before assumption of office, by special election or by appointment by President; due to failure to elect in special election, by appointment by the President. (Sec. 21, Election Code.)
4. Compensation for person appointed to temporary service—President of the Philippines or officer having power to fill position may, in his discretion, order payment of compensation, or additional compensation, to any Government officer or employee designated or appointed temporarily to fill the place. (Sec. 2077, Adm. Code.)
5. Suspension and removal of provincial officer by the President of the Philippines for disloyalty, dishonesty, oppression, or misconduct in office. (Sec. 2078, Adm. Code.)
6. Upon subsequent reinstatement of the suspended person or upon his exoneration, if death should render reinstatement impossible, any salary withheld may be paid in whole or in part upon order of the Department Head approved by the President of the Philippines. (Sec. 2079, Adm. Code.)
7. Subject to regulation by the Secretary of Finance, the provincial board shall fix the number of assistants, deputies, clerks, and other employees for the various branches of the provincial government and the rates of salary wage they shall receive. (Sec. 2081, Adm. Code; see C. A. 78 and Ex. Ord. 167, s. 1938.)
8. Approval of appointments by Department Head. (Ex. Ord. 63, s. 1917 and Sec. 253, Adm. Code.)
9. The provincial board, with the previous approval of the Department Head, may in its discretion provide quarters for the provincial governor, or allow the value thereof, in addition to his salary. (Sec. 2086, Adm. Code, last paragraph.)
10. Assistant provincial treasurer to be appointed by provincial treasurer subject to approval of Secretary of Finance. (Sec. 2088 (A), Adm. Code.)
11. Compensation of Assistant Provincial Treasurer to be fixed by provincial board with the approval of Sec. of Finance. (Sec. 2088 (A), Adm. Code.)
12. Provincial Treasurer shall act, with the approval of the Department Head as agent of the Philippine National Bank, subject to such conditions as the board of directors of the Philippine National Bank may confer and impose upon him. (Sec. 2089 (h), Adm. Code.)
13. By unanimous resolution of the provincial board, approved by the Department Head, either elective member may be required, for the

- time specified in such resolution, to perform the duties of any other provincial officer or to perform any ministerial duty required by the board. (Sec. 2096, Adm. Code.)
14. The provincial board shall keep in such form and manner as shall be prescribed by the Secretary of the Interior a complete, permanent, and carefully written record, arranged in proper chronological sequence, showing the proceedings at its various meetings. Sec. 2100, Adm. Code.)
 15. Copies of minutes and of executive orders to be supplied to Secretary of the Interior under such regulations as he may prescribe. (Sec. 2101, Adm. Code.)
 16. Decision of controversy as to sufficiency of accommodations for courts to be rendered by President of the Philippines. (Sec. 2103, Adm. Code.)
 17. Appropriation for purchase and maintenance of draft animals for breeding purposes, to be used under such regulations as the provincial board shall prescribe and the Director of Animal Industry approve. (Sec. 2105 (b), Adm. Code.)
 18. Appropriation for purposes not specified by law but for general welfare of province and inhabitants subject to approval of Department Head. (Sec. 2106 (a), Adm. Code.)
 19. Fixing of salary of lieutenant-governor of any sub-province is subject to approval of Dept. Head. (Sec. 2106 (b), Adm. Code.)
 20. Loans to municipalities or municipal districts subject to approval of Dept. Head. (Sec. 2106(c), id.)
 21. Investment of fixed deposits in possession of the Philippine National Bank to rural banks or rural credit associations to be approved by Department Head. (Sec. 2106 (d), Adm. Code.)
 22. Fixing of salaries, in excess of authorized rates, of municipal officers of capitals of provinces. (Sec. 2106 (e), Adm. Code.)
 23. Exercise of the power of eminent domain subject to approval of Dept. Head for: the construction or extension of roads, streets, sidewalks, bridges, ferries, levees, wharves, or piers; the construction of public buildings, including schoolhouses, and the making of the necessary improvements in connection therewith; the establishment of parks, playgrounds, plazas, market places, artesian wells, or systems for the supply of water and the establishment of cemeteries, crematories, drainage systems, cesspools or sewage systems. (Sec. 2106 (f), Adm. Code.)
 24. Construction and maintenance, for private use, of railways, conduits, and telephone lines across public thoroughfares, streets, roads, and other public property in the province to be approved by the Department Head upon favorable recommendation by the Secretary of Public Works and Communications. (Sec. 2106 (g), Adm. Code.)
 25. Convocation of mayors for more than four in any one year is subject to approval of Dept. Head. (Sec. 2108, Adm. Code.)
 26. Deposit of surplus funds in any bank duly designated as a Government depository other than the Philippine National Bank is subject to approval by the Dept. Head. (Sec. 2110, Adm. Code.)
 27. Disestablishment of exhibition fund is subject to approval of the Secretary of the Interior. (Sec. 2112, Adm. Code.)
 28. Appropriation from the road and bridge fund for wharves, piers, and docks is subject to approval of Department Head. (Sec. 2113 (b), Adm., Code.)
 29. Appropriation from the road and bridge fund for acquiring, subsidizing, operating, and maintaining means of water transportation within the province or between

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Opinion of Secretary of Justice—

Retirement under Act 4183

In reply to yours of September 24 requesting my comment and recommendation on the interpretation and application of Act No. 4183, as amended by Commonwealth Act No. 623, in relation to the proposed retirement of Mr. Sisenando Ferriols, Administrative Deputy in the office of the Provincial Treasurer of Batangas, I beg to say:

"In order to grant a gratuity to provincial, municipal and city officers and employees who resign or are separated from the service by reason of a reorganization thereof, the provincial boards, municipal and city boards or councils may, with the approval of the Secretary of the Interior, retire their officers and employees, granting them, in consideration of satisfactory service rendered, a gratuity . . ."

Referring to these provisions, as well as to Act No. 4270, authorizing the retirement, under similar conditions, of officers and employees of the City of Manila, this Department has consistently held that the retirement gratuity provided in said Acts "may be demanded only if the claimant is retired or separated from the service as a result of the reorganization" of the local government. (Op. No. 150, series 1941, Op. No. 46, series 1939, of the Secretary of Justice.)

Thus, in one case this Office stated:

"Having been separated from the service by his death—which took place before the approval of Commonwealth Act No. 623—and not by reorganization, of the Government of the City of Manila, Mr. Revilla is not entitled to the retirement gratuity provided in said act." (Op. of the Sec. of Justice, July 15, 1946; underscoring supplied.)

You state that in approving Act No. 4183 the then Governor General laid down the policy that no local official or employee shall be allowed to retire unless his position is abolished

and that no position so abolished shall be recreated, and cautioned against the conversion of the said Act into a pension law, inasmuch as this legislation was passed apparently for the purpose of facilitating the reorganization of the local government with the retrenchment policy in view.

Conformably to that policy and to the opinions of this Department hereinbefore mentioned, I recommend that no provincial, municipal, or city officer or employee be retired with gratuity unless his retirement or separation from the service should arise from or should become necessary by reason of a reorganization of the service.—*Letter dated Oct. 16, 1946 of the Sec. of Justice to the Chief of the Executive Office.*

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the province and neighboring provinces or islands or to dredge rivers and provide facilities for communication and transportation by river, and for establishing and operating telephone systems is subject to approval of Dept. Head. (Sec. 2113(c), Adm. Code.)

20. Expenditures for the benefit of non-Christian inhabitants are subject to approval of Secretary of the Interior. (Sec. 2114, Adm. Code. Note: Such expenditures now come from the general fund, the so-called Non-Christian inhabitants' fund having been disestablished inasmuch as the inhabitants concerned are no longer enumerated as non-Christians.—Ed.)

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